

**UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

EDDIE J. HAYNES,)	
)	
PLAINTIFF,)	
)	
vs.)	CASE NO. 2:06-cv-1093-WKW
)	
CITY OF MONTGOMERY, ALABAMA,)	
)	
DEFENDANT.)	

**PLAINTIFF’S EVIDENTIARY SUBMISSION IN OPPOSITION
TO DEFENDANT’S MOTION FOR SUMMARY JUDGMENT**

Comes now the Plaintiff, Eddie J. Haynes, and submits the following evidence in opposition to Defendant’s Motion for Summary Judgment:

1. PX 1, Declaration of Eddie J. Haynes, with exhibits attached.
2. PX 2, Declaration of Mary House Kessler, Ph.D., with exhibit attached.
3. PX 3, Deposition of Michael C. Turner, taken September 25, 2007, with exhibits attached.
4. PX 4, Defendant’s Amended Response to Plaintiff’s First Interrogatories.

/s/ Gerald L. Miller
GERALD L. MILLER (MIL039)
Attorney for Plaintiff

OF COUNSEL:
REDDEN, MILLS & CLARK, LLP
505 North 20th Street
940 Financial Center
Birmingham, Alabama 35203
(205) 322-0457

CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of January, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Allison H. Highley
Kimberly O. Fehl
Assistant City Attorney
City of Montgomery
P.O. Box 1111
Montgomery, Alabama 36101-1111

/s/ Gerald L. Miller
OF COUNSEL

**UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

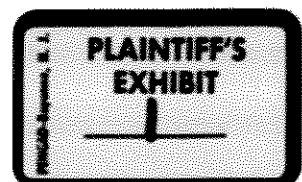
EDDIE J. HAYNES,)	
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PLAINTIFF,)	
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vs.)	CASE NO. 2:06-cv-1093-WKW
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CITY OF MONTGOMERY, ALABAMA,)	
)	
DEFENDANT.)	

DECLARATION OF EDDIE J. HAYNES

1. My name is Eddie J. Haynes and I am the Plaintiff in the above-styled case. I am over nineteen years of age and make this sworn Declaration based on my own personal knowledge.

2. I was hired by the City of Montgomery, Alabama in its Fire Department as a Firefighter on April 4, 1990. I worked continuously as a Firefighter in the Montgomery Fire Department until I was involuntarily terminated effective June 14, 2006, although I was on involuntary leave from March 15, 2005 until June 14, 2006. At all times I was fully capable of performing, and did perform except while on involuntary leave, all of the duties of a Montgomery Firefighter without difficulty and in a satisfactory manner.

3. On November 14, 2002 I began seeing Dr. Clemmie Palmer, III, a psychiatrist in Montgomery, for anxiety. At that time Dr. Palmer diagnosed me with Generalized Anxiety Disorder and prescribed several medications for me to take, specifically Valium (Diazepam), Gabitril, and Zoloft. I began taking these medications and seeing Dr. Palmer



on a regular basis, and continued to work, performing all of my duties as required, and having no side effects from any of these medications.

4. I was trained to operate and drive a fire truck. I did drive the fire truck on many occasions, but was normally not the principal driver on my shift. I never had any accidents or difficulty driving the fire truck. I never at any time asked to be relieved from the duty of driving the fire truck. I never told anyone that I was not comfortable driving the fire truck.

5. In 2002 and 2003 and for some period of time prior to that, I was working at Station 14, District III. A number of my fellow firefighters there and superiors knew about the medication that I was taking. In January, 2003 I was sent home by Lieutenant R.L. Johnson at Station 14 until I could present verification from my doctor of the medications I was taking and their side effects on me. I repeat that I did not request to be relieved from my duties or from driving the fire truck and did not feel uncomfortable driving the fire truck. Nevertheless, I was sent home.

6. I immediately, on the same date, went to Dr. Palmer and explained the situation to him. Dr. Palmer faxed a letter to Chief C.E. Walker of the Montgomery Fire Department, of which I received a copy. A true and correct copy of that letter is attached as Exhibit A. Dr. Palmer's letter, dated January 28, 2003, stated that he had been seeing me since November 14, 2002, named my then-current medications Zoloft, Valium, and Gabitril, stated I had not had any side effects to those medications, I had no work restrictions and should continue to perform my duties at my current capacity, and had been stable on those

current medications and working full-time without difficulty. I was then allowed to report back to duty that same date.

7. In 2004 and early 2005 I was still working at Station 14. In late 2004 I wrote a letter on behalf of a fellow black Firefighter, Sgt. L.M. Hartwell, who was having a conflict with two white officers at the station. I, too, am a black Firefighter.

8. On February 25, 2005 the Captain at Station 14, Cpt. B.S. Hackett, told me that he wanted to request that I be transferred to another shift. The reason he expressed was to put me in a situation where I would be less likely to drive the fire truck. I told him I had no problem driving the fire truck. I did not feel uncomfortable driving the fire truck and never requested not to drive the fire truck. I was performing all of my duties in a satisfactory way. Attached as Exhibit B is a true and correct copy of an Employee Commendation Record of which I received a copy, dated February 10, 2005 from Cpt. Hackett. The document states, in part, "Firefighter Haynes has done a good job this trimester....He performs all assignments when given to him. He is neat and punctual."

9. On February 28, 2005 Cpt. Hackett again came to me and stated that the administration downtown was insisting that I write a letter listing the medications that I take. I asked him why they wanted such a letter and he stated he did not know. I told him I had no problem driving the fire truck and he stated he knew that. He said he had tried to explain all of this to the administration downtown, but they insisted that I write such a letter.

10. On March 4, 2005 I wrote a letter, as requested, to District Chief M.F. Smith. A true and correct copy of that letter is attached as Exhibit C. In that letter I did not request

to be relieved of the duty of driving the fire truck. To the contrary, the letter begins, "It is a pleasure as well as an honor to be chosen Driver of Engine 14. And I am more than willing if the City of Montgomery needs me to do so." In the letter I went on to inform the City of my current medications and all the medications that I had taken in the last six months. I ended the letter as follows: "Again, thank you for your consideration for me being Engine 14 Driver. It is an honor to be a Montgomery Firefighter and take on the duties of a dedicated Fireman."

11. At the same time I submitted this letter, I also submitted another letter from Dr. Clemmie Palmer dated March 4, 2005. A true and correct copy of that letter is attached as Exhibit D. In that letter Dr. Palmer stated:

Mr. Eddie Haynes is able to work on the current medications Lexapro, Valium, and Gabitril. He has not had any side effects on his current medications. Mr. Haynes is to take his medication as prescribed. He was instructed to take Valium on an as needed basis. Mr. Haynes has no work restrictions and should continue to perform his duties at his current capacity. He has been stable on his current medication and working full time without difficulty. If you have concerns do not hesitate to call or write.

12. I continued working, performing my regular duties, and even driving the fire truck without difficulty or incident until March 15, 2005. On that date I was taken to meet with Assistant Chief M. Jordan and Assistant Chief Green. In that meeting Assistant Chief Jordan informed me that I was being placed on sick leave pending an investigation of the medications that I take and a determination of whether I can perform my duties while taking these medications. I was told the only way I would be able to return to work was if the City

Risk Manager and the City doctor released me to return to work. I told Assistant Chief Jordan and Assistant Chief Green that I was able to drive the fire truck and perform all of the duties of a Firefighter and had been satisfactorily performing all of my duties. Nevertheless, I was placed on sick leave. Initially my leave was paid due to sick time, but beginning in May, 2005 until my termination in May, 2006, my leave was unpaid.

13. On March 24, 2005 I was sent to Dr. Michael Turner, the City doctor, for an examination. I advised Dr. Turner of the medications that I was taking and the doctors who prescribed them. Dr. Turner stated there was nothing he could do at this time without my medical records. I signed a medical authorization form for him to obtain my records. A true and correct copy of the medical authorization I signed is attached as Exhibit E.

14. On March 29, 2005 I was asked to meet with Assistant Chief M. Jordan again. This time, Assistant Chief Walker was present. Assistant Chief Jordan told me that it was important that I get off of my medication. He stated if something happened to me, my wife might decide to sue the City of Montgomery. I told him that I do not take my medications while on duty. He stated that the only way I could work for the City of Montgomery Fire Department was to be off of the medications. He told me I needed to think about my situation.

15. My next appointment with Dr. Turner was March 31, 2005. On that occasion, Dr. Turner or his assistant took my vital signs and listened to my heart and breathing. I told him of the medications that I was taking. I told him that the only medication that I took while on duty was Lexapro. He had Dr. Palmer's letter dated March 4, 2005 in front of him

and some other records from Dr. Palmer. I told him I was having no side effects from my medications and was able to fully perform the duties of a firefighter, including driving the fire truck and working on the fire line. I told him that the medications that Dr. Palmer had prescribed were for my anxiety condition. I told him I had never had seizures. Dr. Turner was already aware of some of the other medications such as Skelaxin because he had prescribed them for me to take temporarily because of a slight knee injury. At the end of my examination and discussion with Dr. Turner, he told me that the City would have to make the decision as to whether or not I could return to work. He did not ask me for any further information and did not say that he needed any information from Dr. Palmer or any other doctor.

16. From that point on, over the next several months, I had several conversations with various persons in the City of Montgomery Fire Department administration. I was inquiring about coming back to work and I kept being told that I could not come back to work until Dr. Turner cleared me. I talked to Dr. Turner's office on several occasions and they told me it was up to the City whether I could go back to work. The City began to pressure me to apply for leave under the Family and Medical Leave Act. I did not do so, because I told them that I was perfectly capable of working and wanted to come back to work and needed to come back to work to support my family. I expressed my desire on numerous occasions to return to work, but was always told that I could not return until Dr. Turner released me.

17. My attorney wrote several letters during 2005 and 2006 to the City attorneys

for the City of Montgomery asking that I be returned to work. I received copies of these letters and responses from the City attorneys for the City of Montgomery which always refused to allow me to return to work. At one point, the attorney for the City of Montgomery sent medical authorizations to my attorney for me to sign so that they could obtain my medical records from my doctors. I signed those authorizations and they were returned to the City Attorney. I was still not allowed to return to work.

18. Finally, I received a letter dated May 4, 2006 from then Fire Chief J.W. McKee. A true and correct copy of that letter is attached as Exhibit F. That letter stated that if I had not returned to work by May 22, 2006 the Montgomery Fire Department would consider me to have resigned my position by job abandonment.

19. I reported to work on May 22, 2006. I was not allowed to work and was sent home. I asked the Fire Department to make an appointment for me to see Dr. Turner to be released for work. I was initially told the City would not make such an appointment because the purpose was not a work injury but for release for duty. After my attorney wrote a letter to the City Attorney asking that I be allowed to see Dr. Turner to get released to return to work, I was then allowed to see Dr. Turner on May 25, 2006.

20. My appointment with Dr. Turner on May 25, 2006 was very brief. Dr. Turner did not give me a physical examination but asked me again about my medications. I told him I was still taking Lexapro, Valium, Gabitril, and now Flexaril, but do not take them while at work. Dr. Turner told me I was physically fit for duty but nothing had changed since my last evaluation. He said the City of Montgomery must decide whether to return me

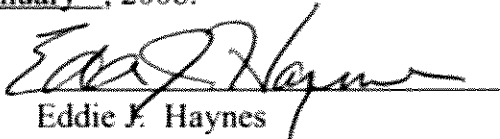
to work or not.

21. After that visit, my attorney again wrote the City Attorney asking the City to reconsider its position and return me to work. The next contact I had, or, to my knowledge my attorney had, with anyone was when I received a letter dated June 20, 2006 informing me that effective June 14, 2006 my employment status with the Montgomery Fire Department had been considered a voluntary resignation. A true and correct copy of that letter is attached as Exhibit G.

22. I never at any time informed anyone with the City of Montgomery or City of Montgomery Fire Department that I was resigning or abandoning my job. To the contrary, I informed the City of Montgomery Fire Department on numerous occasions that I desired to come back to work, and my attorney did as well. I was never allowed to come back to work after March 14, 2005. I did not voluntarily resign or abandon my job. My employment was involuntarily terminated.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 4th day of January, 2008.


Eddie J. Haynes

FROM : FAX NO. : 334-280-3272

Palmer Psychiatric Services, PC
Clemmie Palmer III, MD

3090 Woodley Road, Suite A
Montgomery, AL 36116

Phone 334 280-3230
Fax 334 280-3272

January 28, 2005

Chief C.E. Walker
Montgomery Fire Department
Fax: 241-2417

RE: Eddie Haynes
DOB: 8/17/1970

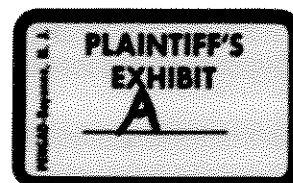
Dear Chief Walker:

Mr. Eddie Haynes is able to work on the current medication Zoloft, Valium and Gabitril. He has not had any side effects to his current medications. Mr. Haynes is to take his medication as prescribed. He was instructed to take Valium on an as needed basis. Mr. Haynes has no work restrictions and should continue to perform his duties at his current capacity. I have been seeing him since November 14, 2002 and he has been stable on his current medication and working full time without difficulty. If you have any questions or concerns do not hesitate to call or write.

Cordially,



cc: Lt. Ricky Johnson
284-7924



EMPLOYEE COMMENDATION RECORD

EMPLOYEE: E.J. Haynes POSITION: Fire Fighter

SUPERVISOR: B.S. Hackett, Captain DEPT: Fire

DATE OF COMMENDATION: February 10, 2005

REASON FOR COMMENDATION: (Description of performance or conduct - give specific facts, background information, dates and times)

Firefighter Haynes has done a good job this trimester. He knows his territory and stays abreast of his SOP's. He works well with others and is a good team member. Firefighter Haynes's experience is demonstrated on and off the fire scene. He performs all assignments when given to him. He is neat and punctual.

B.S. Hackett, Cpt
Supervisor

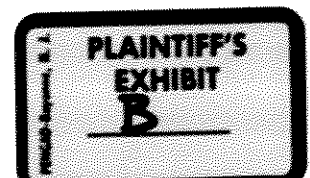
February 10, 2005
Date

My signature indicates that the above matters were discussed with me on
and that I received a copy of this form.

February 10, 2005
(Month Day Year)

E.J. Haynes
Employee Signature

ATTACH ADDITIONAL SHEETS AS REQUIRED



TO: M.F. Smith, District Chief

From: E.J. Haynes, Firefighter

Date: March 4, 2005

RE: Engine 14 Driver

Dear Sir,

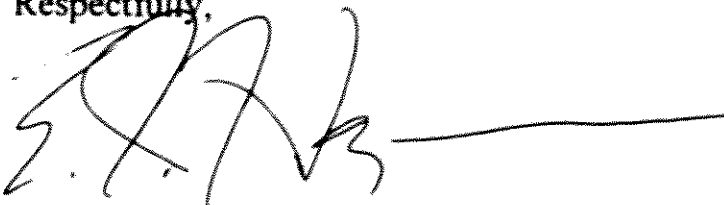
It is a pleasure as well as an honor to be chosen Driver of Engine 14. I am more than willing if the City of Montgomery needs me to do so. However, if there is someone else is more willing or highly qualified to drive Engine 14 I will assist them as needed to be ready to take any assignment. I have been driving the Fire Truck off and on for the last fourteen years and I am currently the driver.

Being a Driver for Engine 14 I know I must inform you of my medications. The medications include Ibuprofen 600 mg. daily, Lexapro 10 mg. daily, and Gabitril 4 mg. PRN(two -three times a week).

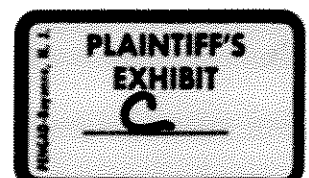
Medications that I take on my off days and on a as needed basis are Hydrocodone 5/500, Diazepam 5 mg., Cyclobenzaprine 10., Skelaxin 800., Meperidine 50., and over the counter Benadryl for my sinus problem.

Again, thank you for your consideration for me being Engine 14 Driver. It is an honor to be a Montgomery Firefighter and take on the duties of a dedicated Fireman.

Respectfully,

A handwritten signature in black ink, appearing to be 'E. J. Haynes', followed by a long horizontal line.

E. J. Haynes, F/F Station 14



 **Palmer Psychiatric Services, PC**
Clemmie Palmer III, M.D.

3090 Woodley Road, Suite A
Montgomery, Alabama 36116
doctor.medscape.com/CPalmerMD

Phone: (334) 280-3230
Fax: (334) 280-3272
Email: CPalm04@aol.com

March 4, 2006

RE: Eddie Haynes
DOB 08/17/1970

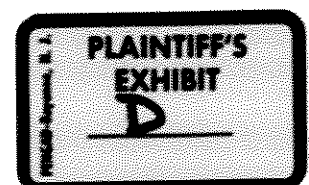
To Whom It May Concern:

Mr. Eddie Haynes is able to work on the current medications Lexapro, Valium, and Gabitril. He has not had any side effects on his current medications. Mr. Haynes is to take his medication as prescribed. He was instructed to take Valium on an as needed basis. Mr. Haynes has no work restrictions and should continue to perform his duties at his current capacity. He has been stable on his current medication and working full time without difficulty. If you have concerns do not hesitate to call or write.

Cordially,



CP/mb



AUTHORIZATION FOR USE AND DISCLOSURE OF PROTECTED HEALTH INFORMATION

Patient Identification:

Printed Name: Eddie Haynes Date of Birth: 8-17-70

Address: 4501 Middle Frix Rd Montgomery AL 36106

Social Security#: 424-28-1040 Home Phone: 272-0317 Cell: _____

Information To Be Released – Covering the Periods of Health Care:

From (date) _____ to (date) _____
From (date) _____ to (date) _____

Please check type of information to be released:

<input checked="" type="checkbox"/> Entire Medical Record	<input type="checkbox"/> Pathology Reports	<input type="checkbox"/> Hospital Records	<input checked="" type="checkbox"/> X-Ray Reports
<input type="checkbox"/> History & Physical Exams	<input checked="" type="checkbox"/> Consultation Reports	<input type="checkbox"/> Progress Notes	<input type="checkbox"/> X-Ray Films
<input checked="" type="checkbox"/> Lab Test Results/Reports	<input checked="" type="checkbox"/> Office Visit Notes	<input checked="" type="checkbox"/> Operative Reports	<input type="checkbox"/> ER Records
<input checked="" type="checkbox"/> Medications	<input type="checkbox"/> Other: (specify) _____		

Purpose of Request:

<input checked="" type="checkbox"/> Treatment	<input checked="" type="checkbox"/> Consultation	<input type="checkbox"/> Patient Requested	<input type="checkbox"/> Billing or Claims Payment
---	--	--	--

Person or Facility Authorized to Receive Information:

Southeastern Industrial & Family Medicine Associates, LLC
1600 Forest Avenue
Montgomery, Alabama 36106
Telephone: (334)261-4445 Fax: (334)261-4448

Drug and/or Alcohol Abuse, and/or Psychiatric, and/or HIV/AIDS Records Release:

I understand that if my medical or billing record contains information in reference to drug and/or alcohol abuse, psychiatric care, sexually transmitted Disease, Hepatitis B or C testing, and/or other sensitive information, I AGREE to its release as part of the requested information.

Check One: ☒ YES ☐ NO _____ Initials

I understand that if my medical or billing record contains information in reference to HIV/AIDS (Human Immunodeficiency Virus/Acquired Immuno-Deficiency Syndrome) testing and/or treatment, I AGREE to its release as part of the requested information:

Check One: ☐ YES ☐ NO _____ Initials

Time Limit & Right to Revoke Authorization:

Except to the extent that action has already been taken in reliance on this authorization, at any time I can revoke this authorization by Submitting a notice in writing to the facility Privacy Officer. This authorization is effective for _____ months after date signed.

Signature of Patient or Personal Representative Who May Request Disclosure:

I understand that _____ may not condition my treatment on whether I sign this authorization form unless specified above under Purpose of Request. I can inspect or copy the protected health information (PHI) to be used or disclosed. I authorize Southeastern Industrial & Family Medicine to use and disclose the PHI specified above.

Signature: [Signature] Date: 3-24-05
Authority to sign if not patient: _____

Re-disclosure:
I understand the information disclosed by this authorization may be subject to re-disclosure by the recipient and will no longer be protected by facility, its employees, officers and physicians are hereby released from any legal responsibility or liability for disclosure to the extent indicated





Montgomery Fire and Rescue

Bobby H. Bright
Mayor

John W. McKee
Fire Chief

Montgomery City Council Members
Charles W. Starnight - President
James A. Huckleberry - Vice President
Jim Spear - Councilman
Tim Moore - Councilman
Janet T. May - Councilman
Catherine "CC" Calhoun - Councilman
Willie Cooke - Councilman
Martha Amey - Councilman
Alan D. Pruitt, Jr. - Councilman

May 4, 2006

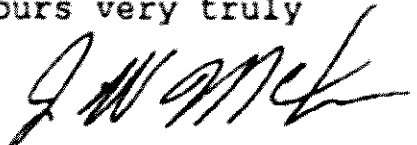
Firefighter E. J. Haynes
4501 Middlefork Road
Montgomery, AL 36106

Dear Firefighter Haynes:

On the third week of March, 2005, you went on leave until you could get the issue of your prescription drug use resolved between your physician and the City employed physician. On May 30, 2005, having not resolved the issue, you went on leave without pay. As of this date, the issue has not been resolved nor have you been in contact with us concerning your situation.

If you have not returned to work by May 22, 2006, as pursuant to Montgomery City-County Rules and Regulations, Rule IX, Section I, the Montgomery Fire Department will consider you to have resigned your position by job abandonment.

Yours very truly



J. W. McKee, Fire Chief

JWM:fb



P.O. BOX 1111, MONTGOMERY ALABAMA 36101-1111

(334) 241-2000

FAX (334) 241-2611

PLAINTIFF'S
EXHIBIT

F



Montgomery Fire and Rescue

Bobby N. Bright
Mayor

John W. McInnis
Fire Chief

Montgomery City Council Members
Charles W. Jorgensen—President—
James A. Ninkovic—Pres. Pro Tem—
Rick Spivey—
Tim Hood—
James T. May—
Comedian "CC" Calloway—
Willie Cook—
Martha Ruby—
Olson O. Pruitt, Jr.—

June 20, 2006

Mr. Eddie J. Haynes
4501 Middleford Road
Montgomery AL 36106

Dear Eddie:

This letter is to inform you that effective June 14, 2006, your employment status with the Montgomery Fire Department has been considered a voluntary resignation.

Please turn in all Fire Department property (such as uniforms and firefighting equipment that may be in your possession) to our Fire Department Supply facility at 507 North California Street as soon as possible.

MJ/sh

PO BOX 1111 MONTGOMERY, ALABAMA 36101-1111

(334) 241-2611
FAX: (334) 241-2611

PLAINTIFF'S
EXHIBIT

6

**UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

EDDIE J. HAYNES,)	
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PLAINTIFF,)	
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vs.)	CASE NO. 2:06-cv-1093-WKW
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CITY OF MONTGOMERY, ALABAMA,)	
)	
DEFENDANT.)	

DECLARATION OF MARY HOUSE KESSLER, PH.D.

1. My name is Mary House Kessler. I am over nineteen years of age. The facts and opinions I state in this Declaration are made based on my education, training and experience, my personal interview and vocational evaluation of Eddie J. Haynes, and are based on the documents I have reviewed and considered as set forth in this Declaration.

2. I have a Bachelor of Arts Degree in Psychology, a Masters Degree in Education in Counselor Education, and a Doctorate Degree in Counselor Education with emphasis in Rehabilitation Counseling. I am in private practice in Homewood, Alabama as a Licensed Professional Counselor and Vocational Specialist and Life Care Planner. I serve as a vocational expert for the Social Security Administration, Bureau of Hearings and Appeals and have testified as a vocational expert in Social Security cases for approximately six years. My education, training and experience are further set forth in my Curriculum Vitae which is attached to this Declaration as Exhibit A.



3. Mr. Eddie J. Haynes was referred to me by his attorney, Gerald L. Miller, for a vocational evaluation which I conducted on September 11, 2007. Mr. Miller requested that I address Mr. Haynes' perceived disability and his ability to perform his former job as a Firefighter.

4. Mr. Haynes was early for his appointment on September 11, 2007. He was cooperative throughout the ninety-minute interview.

5. Mr. Haynes, who is a thirty-seven-year-old man, began taking medication for his anxiety in 2002. On January 28, 2003, Dr. Clemmie Palmer, III, stated that Mr. Haynes was able to work on his current medication and was to take his medication as prescribed. Dr. Palmer said that Mr. Haynes had not had any side effects from his medications and had no work restrictions. He said that Mr. Haynes had been his patient since November 14, 2002, and had been stable on the medication and working full-time without difficulty. On September 13, 2004, Mr. Haynes had a knee injury and was placed on light duty until December 3, 2004, when he was placed at maximum medical improvement by Dr. Wells. In a letter of March 4, 2005, Dr. Palmer once again stated that Mr. Haynes was able to work on his medications, had not experienced side effects, and was working under no restrictions. He said that Mr. Haynes was able to perform his duties and was able to work full-time without difficulty.

6. On March 31, 2005, Dr. Michael Turner released Mr. Haynes as physically fit to return to duty. In his statement, the concerns he apparently had stemmed from the

medications that Mr. Haynes was taking for anxiety and joint pain. Although Mr. Haynes had explained that he did not take any medication except Lexapro while on duty, Dr. Turner said that Mr. Haynes's logic made no sense to him. He said that the effects from the medications could carry over into Mr. Haynes' work and that a drug screen performed would "most likely be positive even when on duty."

7. A hair analysis drug test was performed on Mr. Haynes on March 31, 2005, which was negative for all drugs, according to the report. On April 5, 2005, Dr. Turner determined that the drug screen had been negative. On April 14, 2005, Dr. Palmer once again stated that Mr. Haynes was able to work without taking the Valium or Gabitril and could perform his duties in the current capacity without restrictions.

8. In his deposition of September 25, 2007, Dr. Turner said that when he examined Mr. Haynes on March 31, 2005, his physical examination had been within normal limits and there were no physical limitations at that time. He stated that he could not release Mr. Haynes to return to his job as a firefighter. He stated that his concerns about Mr. Haynes, at that time, came from possible side effects from his medications. He described the side effects to include increased sweating and dehydration; dizziness; sleepiness or drowsiness; and disorientation. He also stated that he would not have cleared Mr. Haynes to drive any type of equipment while taking his medications. Further, he said that he had concerns about Mr. Haynes working on the fire line while taking the medications because of the drowsiness, dizziness, sleepiness, and heat-stress related issues. He stated that his

concerns about Mr. Haynes working on the fire line were because it was a very strenuous job, both physically and mentally. However, he stated that he could not answer a question regarding whether Mr. Haynes could perform any type of strenuous job.

9. Mr. Haynes stated in his interview that he had been taking medication for his anxiety since 2002. He reported that he was on light duty for his knee pain for approximately three or four weeks, but his injury had healed and he had been released to return to full duty as far as his knee injury was concerned. However, he stated that he was not allowed to return to work unless he was off of all of his medication for his anxiety.

10. At the time of the interview, Mr. Haynes was working for the Jackson Hospital as a security guard. He monitored detectors and checked for weapons as people came into the hospital. He was required to watch hospital monitors and to make rounds. He said that he occasionally had to lift patients and was performing heavy work there.

11. Concurrent with his work at Jackson Hospital, Mr. Haynes stated that he was working for the Victory Land Dog Track as a security guard approximately fifteen hours a week. Previously, he worked as a security guard at the Senate Building for a year. He also worked for the History and Archives Building in security for three or four months before being transferred to the senate building. He helped build houses for individuals at times after leaving the fire department.

12. Mr. Haynes worked for the Montgomery Fire Department for fifteen years as a firefighter and first responder. He responded to medic runs, car accidents, gunshot

wounds, and all types of medical calls as well as all firefighting calls. He drove the fire truck and never had any accidents. Apparently, no disciplinary actions were ever taken against him in his work. He was responsible for assisting in yard work, cleaning the fire department, and participating in monthly inspections and continuing education. He said that he was required to lift and carry a dummy weighing more than a hundred pounds, climb stairs with it, and perform other tasks in the exercises. He reportedly always passed his exercises and evaluations without difficulty.

13. The only other type of work that Mr. Haynes reported was that of working in fast food and bagging groceries.

14. Mr. Haynes continued to have negative drug tests. His psychiatrist reportedly wrote letters indicating that Mr. Haynes was able to work at full duty without restrictions and without difficulty. On February 10, 2005, Mr. Hackett, Captain of the fire department, stated that Mr. Haynes had done a good job that trimester, worked well with others, and was a good team member. He said that Mr. Haynes' experience was demonstrated on and off the fire scene. On February 24, 2005, Mr. Hackett stated in a letter to Mr. Stoudenmier, District Chief, that firefighter Haynes was alert and did all that he was asked to do around the station. However, Chief Hackett stated that he did not feel confident in Mr. Haynes' mental status when driving the fire engine. He said that Mr. Haynes was overly cautious while driving and his concern could cause a "possible problem in the future."

15. Dr. Palmer, the psychiatrist treating Mr. Haynes, and the psychiatrist who

prescribed his medications, has stated several times that Mr. Haynes has no work restrictions and could perform his duties as a firefighter. However, Dr. Turner has reported that although Mr. Haynes was physically fit to return to duty, there were concerns regarding the medications he was taking for anxiety and joint pain. Dr. Turner stated that there were safety issues for Mr. Haynes driving the fire truck and working on the fire line, even though Mr. Haynes had reported that he did not take these medications while on duty. Further, it is my understanding that Mr. Haynes was not allowed to return to his former job of firefighter without a complete release from Dr. Turner.

16. Mr. Haynes is presently performing work which requires him to work under hazardous conditions as a security officer. He stated that he has had no problems in his work in security, nor did I see any indication that he had encountered any problems in performing his job of firefighter or as a fire truck driver.

17. With his education, experience and training, Mr. Haynes has access to approximately 404,362 jobs within the State of Alabama. Of those jobs, 182,853 jobs require Mr. Haynes to work with exposure to hazardous conditions, operating machinery, hazardous equipment, and/or unprotected heights. The perception of Mr. Haynes' inability to perform work in which he is exposed to work with these conditions restricts him from a broad range of jobs. If Mr. Haynes is perceived as unable to perform hazardous work, he loses access to approximately 182,853 jobs within the State of Alabama, or 45 percent of the jobs within the State for which the average person having Mr. Haynes' training, skills and

abilities would be qualified. Many of the jobs within the State which Mr. Haynes has been perceived as unable to perform require the same or similar training, education, and experience as his previous work. Representative classes and numbers of such jobs in the state requiring the same or similar training, education, and experience are as follows:

law enforcement workers	4,368
police officers	8,417
security guards	10,152
emergency medical techs/paramedics	1,962
firefighters	4,776

18. Although Mr. Haynes was perceived as having a disability that precluded him from the classes and ranges of jobs noted, he continues to work in jobs requiring him to be exposed to hazardous conditions. Therefore, the perception of his inability to perform work which exposes him to these conditions, such as driving vehicles and working on the fire lines has precluded him from being able to perform his career which he performed for fifteen (15) years before being denied the opportunity to return to the work he had performed taking the same or similar medications since 2002.


19. The following data was considered in forming my opinions regarding Mr. Eddie J. Haynes:

information gathered from the 9/11/07 interview with Mr. Haynes;
 return-to-work certificates from Dr. Turner;
 office notes from Dr. Turner from 2004 through 2006;
 letters from Dr. Palmer from 2003 through 2005;
 drug testing results on Mr. Haynes from 2002 through 2005;
 an MRI from Dr. Hahn taken 11/23/04;
 a letter from Mr. Haynes written 03/04/05;

excerpts from the Deposition of Dr. Michael Turner taken 9/25/07;
a Commendation Record by Capt Hackett regarding Mr. Haynes;
a letter from Capt. Hackett to District Chief Stoudenmire of 02/24/05;
letters to Mr. Haynes from the Montgomery Fire & Rescue Dept. written in
May and June of 2006;
information from The Dictionary of Occupational Titles, U.S. Dept. Of Labor, 1991;
job data for the State of Alabama from the computer program OASYS;
job data from the Occupational Employment Quarterly, compiled by U.S. Publishing;
job information from The Classification of Jobs 2000, published by Elliott &
Fitzpatrick, Inc., 1999.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing
is true and correct.

Executed on this 3rd day of January, 2008.


Mary Housse Kessler, Ph.D.

MARY HOUSE KESSLER, Ph. D.
Licensed Professional Counselor
Certified Life Care Planner

2610 19th Street South
Homewood, AL 35209
(205) 870-3701
Fax: 879-1658

VITAE

EDUCATION:

Ph.D.: University of South Carolina, 1978
Major: Counselor Education with emphasis in
Rehabilitation Counseling
Cognate: Special Education

M.Ed.: University of South Carolina, 1974
Major: Counselor Education

B. A.: St. Andrews Presbyterian College, 1967
Major: Psychology

Completed 140 hours of post-graduate training in Life Care Planning through the University of Florida and Intellicus, 1993-1995

WORK EXPERIENCE:

Vocational Expert for Social Security Administration, Bureau of Hearings and Appeals, April 1980 to June 1983 and July 2004 to present. Duties include: knowledge of current jobs in state; job analysis; and federal hearing testimony as a vocational expert.

Licensed Professional Counselor with emphasis in brief therapy, August 1997 to present. Includes counseling for situational changes and creating options.

Vocational Specialist and Life Care Planner, Private Practice, February 1985 to present. Services include: complete vocational analysis (with a vocational disability rating, if desired); life care plans for individuals with catastrophic injuries; consultation with attorneys and insurance adjusters; personal counseling; report writing; depositions; and court testimony when required.

Rehabilitation Specialist, C.A.R.E. Clinic, Lakeshore Rehabilitation Hospital, September 1983 to February 1985. Duties included: coordination of complete medical and vocational evaluation of clients at Lakeshore Hospital; writing and submitting the evaluation report; and court testimony when required.



Mary House Kessler, Ph.D.
Page Two

WORK EXPERIENCE:
(Continued)

Coordinator of Research and Materials Development, School Advisory Council Assistance Project, University of South Carolina, September 1980 to May 1983. Responsibilities included: developing and submitting training and research grants; planning and implementing research projects; statewide consultation with school administrators, teachers, and parents; coordinating and managing professional publication activities; designing instruments and tabulating results of evaluation of all project training; conducting training statewide; attending professional meetings; and editing the School Advisory Council News.

Adjunct Instructor, College of Education, University of South Carolina, 1977 to 1980-81. Courses taught included: Introduction to Rehabilitation Counseling; Communication Skills; Introduction to Educational Psychology; and Educational Measurement.

Coordinator, Pacific Rehabilitation Continuing Education Program, January 1979 to February 1980. Responsibilities included: development of long-term training grant for the Department of Vocational Rehabilitation in Hawaii, Guam and Trust Territory of the Pacific; direction and management of the program; assessing rehabilitation continuing education needs; developing, administering, and evaluating the program; planning and implementing the development of the Resource Lab for rehabilitation services; and supervising the program personnel.

Instructor, Department of Education, University of South Carolina, September 1978 to December 1978. Worked with the Assistant Dean of Academic Affairs, Dr. John Dolly. Responsibilities included: scheduling for the College of Education; assistance with research grant development; development and implementation of College of Education participating in university-wide activities; and faculty meeting attendance.

Mary House Kessler, Ph.D.
Page Three

WORK EXPERIENCE:
(Continued)

Graduate Assistant, University of South Carolina, 1977 to 1978. Responsibilities included: assistance with education and training in the Rehabilitation Service Work Evaluation Laboratory; compiling and giving presentations on work evaluation to classes in the College of Education; and establishing a library of available materials on work evaluation and adjustment.

Vocational Rehabilitation Counselor, South Carolina Department of Vocational Rehabilitation, Columbia, South Carolina, October 1968 to January 1977. Responsibilities included: vocational and personal rehabilitation counseling; writing plans for clients' rehabilitation process; vocational surveys; job placement; follow-up; and attending both hospital and vocational rehabilitation treatment teams and staff meetings.

Vocational Rehabilitation Evaluator, South Carolina Department of Vocational Rehabilitation, Columbia, South Carolina, September 1967 to September 1968. Duties included: group and individual vocational and psychological testing; writing work evaluation reports; and attending vocational rehabilitation staff meetings.

PUBLICATIONS:

Kessler, Mary S. Anxiety and the work-handicapped individual's pursuit of work. Carolina Counselor. Columbia, SC: University of South Carolina, 1978.

Kessler, Mary S. and Milligan W. Lloyd. Effect of age and disability-onset on self-esteem and anxiety in wheelchair-bound individuals. Rehabilitation Psychology. 1979, 26 (3) 105-112.

Kessler, Mary House and McClam, Tricia. High anxiety, low self-esteem; Some techniques for helping. Education Unlimited, 1981, 3 (4), 17 - 18.

Mary House Kessler, Ph.D.
Page Four

PUBLICATIONS:
(Continued)

McClam, Tricia and Kessler, Mary House. Human services programs: A look at graduates. Journal of College Placement, 1982, 62 (2), 44 - 46.

Jackson, Mary C. and Kessler, Mary House. School Advisory Councils: A bridge between school and community. Journal of Educational Communication, 1983, 6 (2), 18 - 19.

Jackson, Mary C. and Kessler, Mary House. Citizen participation in education. In G. Miller and G. Nemeth (Eds.) A Consumer's Guide to the Public Schools. Springfield, IL; Charles C. Thomas, 1983.

Kessler, Mary House (Ed.) School Advisory Council News. Published five times yearly, 1981 - 1983.

McClam, Tricia and Kessler, Mary House. Relationship between anxiety and attitudes toward disabled persons. Human Service Education, 1987, 8 (2), 37 - 43.

Kessler, Mary House. (1993, April). Physical impairment. Benefits Bugle: Alabama State Bar Workers' Compensation Law Section Newsletter. 2, 1. p.1.

Kessler, Mary House. Diversifying Rehabilitation Services. The Rehabilitation Professional, 1995, 3 (4), 8 and 23.

Kessler, Mary House. (1996, September). Credential for Vocational Experts. Benefits Bugle: Alabama State Bar Workers' Compensation Law Section Newsletter. 6,1. p. 2 & 3.

LICENSES AND
CERTIFICATIONS:

Became Licensed Professional Counselor in the State of Alabama in 1983. Licensed by the Alabama Board of Examiners in Counseling. #433

Mary House Kessler, Ph.D.
Page Five

**LICENSES AND
CERTIFICATIONS:**
(Continued)

Became Certified Rehabilitation Counselor in 1975/84. Certified by the National Commission on Rehabilitation Counselor Certification. #18071

Became Certified Disability Management Specialist in 1985. Certified by the National Disability Management Specialists Commission. #01727

Became Certified Life Care Planner in 1996. Certified by the Commission on Health Care Certification. #0053

Became Certified Practitioner of Neuro-Linguistic Programming in 2001. Certified by the American Board of Neuro-Linguistic Programming.

Became certified in Clinical Hypnosis in 2006. Certified by the American Society of Clinical Hypnosis. #R9270

**PROFESSIONAL
ORGANIZATIONS:**

Member of: National Rehabilitation Association, Alabama Rehabilitation Association, Workers' Compensation Claims Association of Alabama, Amputee Coalition of America, International Association of Rehabilitation Professionals, Alabama Association of Rehabilitation Professionals, International Association for Regression Research and Therapies, and American Society of Clinical Hypnosis.

**COMMITTEE
SERVICES:**

Served as Vice President of AARPPS in 1985. In this position I was responsible for coordinating our monthly meetings and speakers.

Served as chairperson of the Ethics and Standards Committee of AARPPS, 1983 to 1988. During that time, I helped to formulate the procedures to be used by the organization in the event of ethical charges.

Mary House Kessler, Ph.D.
Page Six

COMMITTEE
SERVICE:

(Continued):

Served as chairperson of AARPPS Research and Training Committee in 1991 and 1992. In this capacity, I coordinated our annual seminar.

Served as Co-chairperson of AARPPS Fund Raising Committee in 1996.

Served as member of the Scholarship Committee for Kids' Chance from 1993 to 2005.

PRESENTATIONS:

Have made presentations about vocational rehabilitation to the following: UAB graduate-level Introduction to Rehabilitation class, 1985; Rives and Peterson Law Firm, 1987; Underwriters Adjusting Company Seminar for Claims Representatives, 1987; Bessemer Bar Association Seminar, 1988; Alabama Hospital Association Fund Workers' Compensation in Alabama Seminar, 1990; Alabama Bar Institute's Arguing Damages Seminar, 1992; three seminars give by Alabama Department of Industrial Relations, 1995; Life Care Planning Conference, 1996; Workers' Compensation for the General Practitioner, 1997, 1998 and 1999; the Vocational Evaluation and Counseling Seminar of NARPPS, 1997; and AARPPS, 1998; Case Management Society of America, 2005.

CONTINUING
EDUCATION:

Have attended programs and seminars for continuing education units each year. Some of the seminars include: Vocational Expertise/Labor Market Access and Wage Loss, 1985; An Integrated Approach to Rehabilitation of Industrially Injured Individuals - Hand Amputee and Back, 1985; Workers' Compensation in Alabama - Insurance, Rehabilitation and the Future, 1986; Life Care Planning for Catastrophic Injuries and Innovations in Private Practice, 1987; Labor Market Access Plus, 1989; Wage Loss, 1989; Advanced Life Care Planning for Traumatic Head Injury, 1989; Post-Traumatic Stress Disorder, 1990; Cumulative

Mary House Kessler, Ph.D.
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CONTINUING
EDUCATION:
(Continued)

Trauma Disorders, 1991; Reflex Sympathetic Dystrophy, 1992; Managing Chronic Pain, 1993; The Use of Pump Implants and Stimulators for Chronic Pain, 1993; Ethics in Rehabilitation, 1995; Brief Counseling 1995; Rehabilitation Technology, 1996; Life Care Planning Conference, 1996 and 1997; Brief Therapy Training, 1997, 2000, and 2001; Regression Therapy Training, 1997 and 1999; Transformational Hypnotherapy Training, 1997; Death and Dying, 1999; Understanding Anger, 1999; Life Care Planning Seminars, 1996 through 2000; Issues in Chronic Opioid Therapy in the Pain Patient, 2001; Special Advanced Forensic Program, 2001; Stress and Disease, 2001; Advanced Neuro-Linguistic Programming, 2001; Hypnotherapy, 2001; Time Line Therapy, 2001; Ethics and the Therapeutic Relationship, 2001; Case Management and Rehabilitation Update, 2002; Reaching the Gold Standards in Pain Practice, 2002; Assessment and Management Issues in Chronic Pain, 2002; Pain Management in Primary Care Medicine, 2003; AARP Annual Seminar, 2004 - 2006; American Society of Clinical Hypnosis Training - Basic, Intermediate and Advanced, 2005 and 2006; Life Care Planning: Clinical Application Review, 2006; Hypnosis and the Medical Practice, 2006.

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

EDDIE J. HAYNES,
Plaintiff,

vs. CIVIL ACTION NO: 2:06-CV-1093-WKW

CITY OF MONTGOMERY, ALABAMA,
Defendant.

DEPOSITION OF MICHAEL C. TURNER

The deposition of MICHAEL C. TURNER was
taken before Krista Price, September 25,
2007, at 1600 Forest Avenue, Montgomery,
Alabama 36106, commencing at 1:46 p.m.
pursuant to the stipulations set forth
herein:

ORIGINAL



A P P E A R A N C E S

Appearing for the Plaintiff:

REDDEN, MILLS & CLARK

BY: Gerald L. Miller

940 Financial Center

505 20th Street North

Birmingham, Alabama 35203-3209

Appearing for the Defendant:

CITY OF MONTGOMERY

BY: ALLISON H. HIGHLEY

City of Montgomery Legal Department

P.O. Box 1111

Montgomery, Alabama 36101

Reported By:

Krista Price

Certified Shorthand Reporter

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1 S T I P U L A T I O N S
2

3 IT IS STIPULATED AND AGREED by and
4 between the parties through their
5 respective counsel, that the deposition of
6 MICHAEL C. TURNER may be taken before
7 Krista Price, Certified Shorthand
8 Reporter, and Notary Public, State of
9 Alabama at Large, at 1600 Forest Avenue
10 Montgomery, Alabama, on September 25, 2007
11

12 IT IS FURTHER STIPULATED AND AGREED
13 that the signature to and the reading of
14 the deposition by the witness is waived,
15 the deposition to have the same force and
16 effect as if full compliance had been had
17 with all laws and rules of Court relating
18 to the taking of depositions.
19

20 IT IS FURTHER STIPULATED AND AGREED
21 that it shall not be necessary for any
22 objections to made by counsel to any
23 questions, except as to the form or

1 leading questions, and that counsel for
2 the parties may make objections and assign
3 grounds at the time of trial, or at the
4 time said deposition is offered in
5 evidence, or prior thereto.

6
7 IT IS FURTHER STIPULATED AND AGREED
8 that notice of filing of the deposition by
9 the Commissioner is waived.

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12 * * * * *
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1 MICHAEL C. TURNER, DO,
2 having first been duly sworn, was examined
3 and testified as follows:

4
5 THE COURT REPORTER: Usual
6 stipulations?

7 MR. MILLER: That's fine.

8
9 EXAMINATION BY MR. MILLER:

10 **Q** Would you state your name for the
11 record?

12 **A** Michael Clark Turner.

13 **Q** And are you a licensed physician in
14 the State of Alabama?

15 **A** I am.

16 **Q** Are you licensed to practice
17 osteopathy or medicine?

18 **A** Osteopathy medicine, yes.

19 **Q** All right. Is your title Doctor of
20 Osteopathy?

21 **A** Yes, it is.

22 **Q** When were you licensed in the State
23 of Alabama?

1 **A** I would of first been licensed in
2 '99 after my first year of internship.

3 **Q** And have you been licensed to
4 practice in Alabama continuously since
5 that time?

6 **A** Yes.

7 **Q** Could you just briefly tell us
8 about your educational background?

9 **A** I attended medical school at Des
10 Moines University, which was in Des
11 Moines, Iowa, that was from '94 to '98.
12 Attended Montgomery family medicine
13 residency program from '98 to 2001 where I
14 did both internship and residency. Board
15 certified with family medicine in 2001
16 until December of 2008.

17 **Q** Is that board -- you said board
18 certification in family medicine?

19 **A** Yes.

20 **Q** And who certifies you? Who issued
21 that certification?

22 **A** That is the board -- medical
23 board.

1 **Q** How are you employed now?

2 **A** I am employed here at Southeastern
3 Industrial Family Medicine. I am the
4 owner.

5 **Q** And for the record, that is in
6 Montgomery, Alabama?

7 **A** Yes.

8 **Q** Could you tell us how osteopathy
9 differs from what I might call regular
10 medicine?

11 **A** A lot of the -- really the only
12 difference at this point in time is the
13 difference of training in the manipulation
14 that the whole body system is
15 interrelated. You don't just treat one
16 system at a time. So there is also that
17 manipulation aspect also.

18 **Q** You're not employed by the City of
19 Montgomery, are you?

20 **A** No.

21 **Q** But you do perform services for the
22 City of Montgomery?

23 **A** I do.

BIRMINGHAM REPORTING SERVICE

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1 Q What services do you perform?

2 A I see their workers' compensation
3 patients. There is also a couple of other
4 doctors that do that also.

5 Q You mean a couple of other doctors
6 here or --

7 A No. A couple in the City of
8 Montgomery.

9 Q Are you the only doctor at
10 Southeastern right now?

11 A Yes, I am.

12 Q And you say you see their workers'
13 comp patients?

14 A Uh-huh.

15 Q Do you also perform fitness for
16 duty examinations?

17 A I do.

18 Q What other -- are there other
19 things that you do for the City of
20 Montgomery?

21 A Also perform firefighter physicals
22 for their pre-employment also.

23 Q How long have you been performing

services for the City of Montgomery?

A Six years.

Q Do you have a written agreement with the City?

A I think initially with Corbin Ulmer. I was in his practice and that is where it all began. He was killed in a car accident. I was in that practice and that practice was closed. It continued with me.

Q That was another doctor?

A Yes.

Q And would you say that name again?

A Corbin Ulmer.

Q U-L-M-E-R?

A Yes, sir.

Q And was he a part of Southeastern Industrial and Family Medicine?

A No.

Q Now, I may be a little bit confused. At the present time since you have been the owner of Southeastern, have you had a written agreement with the City

BIRMINGHAM REPORTING SERVICE

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1 of Montgomery?

2 **A** I believe there is one in place,
3 yes.

4 **Q** Is it to provide --

5 **A** It is to provide services, yeah.

6 **Q** Provides what service or specifies
7 what services you will provide and I guess
8 how you will be compensated for that?

9 **A** I am not sure about that aspect of
10 it.

11 **Q** On what basis are you compensated
12 by the City of Montgomery?

13 **A** You mean the fee schedule?

14 **Q** Well, I guess when you see workers'
15 comp patients are you paid by a workers'
16 comp insurance company or paid by the
17 City?

18 **A** By the City of Montgomery through a
19 -- they have a standard we go by on the
20 rate.

21 **Q** What about fitness for duty
22 examinations, how -- are you paid a
23 certain amount for the service?

1 **A** Yes.

2 **Q** What is a fitness for duty
3 examination?

4 **A** Fitness for duty examination is an
5 evaluation of an employee to see if they
6 are able to perform their job duties as
7 prescribed.

8 **Q** And when you do a fitness for duty
9 examination do you do a standard physical
10 exam or does it vary depending on the
11 patient or job?

12 **A** It will vary depending on the
13 patient, the job, the injury or the
14 situation you are dealing with.

15 **Q** Okay. And how long have you been
16 performing fitness for duty examinations
17 for the City of Montgomery?

18 **A** I don't know if I can give you an
19 exact year. But as long as I have been
20 serving them in this capacity, that long
21 at least. Six years.

22 **Q** How many patients would you say you
23 see on an average day?

1 **A** Probably average of probably around
2 thirty-five.

3 **Q** And, Doctor, you understand that we
4 are here on a case that involves Eddie
5 Haynes?

6 **A** Yes.

7 **Q** What if anything have you done to
8 prepare for this deposition today?

9 **A** I obtained his records and looked
10 over them.

11 **Q** Okay. Have you talked to any of
12 the lawyers from the City of Montgomery?

13 **A** Just as in reference to what time
14 and meeting here.

15 **Q** Okay. No other -- no substantive
16 conversation about Mr. Haynes with them
17 in preparing for the deposition?

18 **A** No, sir.

19 **Q** In preparing for the deposition,
20 did you talk to anyone from the City of
21 Montgomery Fire Department?

22 **A** No, sir.

23 **Q** Do you have a recollection as we

1 sit here today of what Mr. Haynes looks
2 like?

3 A Yes.

4 Q What do you recall that Mr. Haynes
5 looks like?

6 A Pleasant African American man,
7 average weight, height, just general
8 description that is what I remember of
9 him.

10 Q Okay. And you have your office
11 notes and records here with you in front
12 of you?

13 A Yes.

14 Q And I believe you have some other
15 records that you have obtained along the
16 way?

17 A Yes, sir.

18 Q That is from other doctors perhaps?

19 A Two other physicians.

20 Q And who are those?

21 A Dr. Clemmie Brown and Dr. Thomas
22 Wells.

23 Q Is that doctor -- did you say

1 Clemmie Palmer and --

2 **A** Palmer, I am sorry.

3 **Q** And Dr. Thomas Wells?

4 **A** Yes.

5 **Q** Do you remember anything about Mr.
6 Haynes that are not in your records or in
7 the records of the other doctors?

8 **A** Not that stands out to me.

9 **Q** Let's go off the record for just a
10 minute, Dr. Turner.

11 (Whereupon, a brief discussion was had off
12 the record.)

13 **Q** I think we have agreed that we will
14 mark as Plaintiff's Exhibit 1 to this
15 deposition a copy of your entire office
16 chart so to speak on Mr. Haynes; is that
17 correct?

18 **A** That's correct.

19 (Whereupon, Plaintiff's Exhibit No. 1,
20 was marked for identification and the same
21 is attached hereto.)

22 **Q** And your office can get with the
23 court reporter and take care of that?

1 **A** Yes.

2 **Q** That will be Exhibit 1. And are
3 those records kept in the ordinary course
4 of business of Southeastern?

5 **A** They are.

6 **Q** And is it the regular practice of
7 Southeastern to keep records of that sort?

8 **A** Certainly.

9 **Q** When -- or have you seen Eddie
10 Haynes as a patient?

11 **A** As a --

12 **Q** In the role of doctor/patient, did
13 you see him?

14 **A** Yes.

15 **Q** When was the first time that you
16 saw Mr. Haynes?

17 **A** First visit I have seen Mr. Haynes
18 was 9/14 of 2004.

19 **Q** And did he have an appointment or
20 was this a walk-in or how did that come
21 about?

22 **A** He -- they had to schedule him an
23 appointment. I mean he had an injury.

1 **Q** And the City of Montgomery would
2 have scheduled that appointment?

3 **A** Yeah, or the fire department or
4 whoever sent him in, yes.

5 (Whereupon, Plaintiff's Exhibit No. 2,
6 was marked for identification and the same
7 is attached hereto.)

8 **Q** Let me show you what I will mark as
9 Plaintiff's Exhibit 2, which is a poor
10 copy.

11 **A** Okay.

12 **Q** Let me ask you if this is a copy of
13 a record from your chart. You may be able
14 to find a better copy of it in there. I
15 believe it is dated September the 14th,
16 2004, though it is hard to read.

17 **A** Yeah. I need to go get her to
18 print these out for me because they are
19 not in this stack. The return to work
20 slips are not. But that is a part of the
21 record, yes. It is in the computer.

22 **Q** Well, when we talked earlier about
23 the entire chart, what I was intending was

1 that everything be Exhibit 1 to the
2 deposition.

3 A Right.

4 Q And whether it be in a computer --

5 A Right.

6 Q -- or hard copy. So this -- do
7 you recognize Plaintiff's Exhibit 2?

8 A Yes, I do.

9 Q And is it a City of Montgomery
10 physician authorization and treatment
11 report?

12 A It is.

13 Q Is this something that a patient or
14 a city employee typically brings with them
15 to your office?

16 A Yes.

17 Q And it is filled out and signed or
18 at least the top part by the City?

19 A Yes.

20 Q In this case by the fire
21 department?

22 A Right.

23 Q And then do you fill out the bottom

1 part after you have seen the patient?

2 **A** Yes, sir.

3 **Q** And is it somehow transmitted back
4 to the City?

5 **A** Yes.

6 **Q** How does it get back to the City?

7 **A** Usually we fax a copy from here and
8 we keep the original and send them with a
9 copy.

10 **Q** And on that -- this form, you
11 explained briefly what the diagnosis is
12 for the patient and the treatment and
13 whether he can return to duty or not?

14 **A** Yes.

15 (Whereupon, Plaintiff's Exhibit No. 3, was
16 marked for identification and the same is
17 attached hereto.)

18 **Q** Let me show you what I have marked
19 as Plaintiff's Exhibit 3 and ask if that
20 is a copy of your office notes for Mr.
21 Haynes' September 14, 2004 visit?

22 **A** It is.

23 **Q** What was the purpose of that visit?

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1 **A** He had a new injury to the left
2 knee.

3 **Q** And this was a workers' comp
4 injury?

5 **A** Yes.

6 **Q** Did you take a medical history on
7 that occasion?

8 **A** Yes.

9 **Q** What was that history?

10 **A** Do you want --

11 **Q** Let me just ask it this way: Did
12 he tell you that he was taking Zoloft,
13 Valium and a seizure prescription?

14 **A** Yes.

15 **Q** Do you recall what the seizure
16 prescription was?

17 **A** Well, I can assume from what I know
18 of his records that I know what it is,
19 yes.

20 **Q** And what do you believe?

21 **A** It would have been Gabitril.

22 **Q** What did he tell you about his work
23 history on that occasion?

1 **A** Of how he injured his knee or what
2 do you mean?

3 **Q** Did he tell you he was employed by
4 the City of Montgomery Fire Department as
5 a fireman?

6 **A** Yes.

7 **Q** And had been so employed for
8 fourteen years?

9 **A** Yes.

10 **Q** Can you tell me just basically what
11 you did in that examination?

12 **A** Basically examined his knee and
13 then made a plan at that time.

14 **Q** Okay. What did you find when you
15 examined his knee?

16 **A** No evidence of edema. Negative
17 Drawer and Lachman's and McMurray's. Mild
18 tenderness over the medial knee.

19 **Q** Could you tell us layman what all
20 those things mean?

21 **A** First, simply looking for some
22 edema, obvious swelling, which we didn't
23 see. A drawer and Lachman are tests that

1 you are testing the stability of the knee.
2 Also McMurray testing stability and if
3 there is any pain presented for possible
4 meniscal problems.

5 Q And you didn't find any lack of
6 stability?

7 A No.

8 Q And then you said mild tenderness
9 over the medial knee?

10 A Uh-huh.

11 Q What part of the knee is that?

12 A That is the inside part of the
13 knee.

14 Q Okay. And what was your
15 assessment?

16 A Knee sprain.

17 Q And what was your plan?

18 A Placed him on over-the-counter
19 Advil and instructed him on ice and let
20 him continue with his regular activities.

21 Q What is the active ingredient in
22 Advil?

23 A You mean Ibuprofen?

1 **Q** Is that --

2 **A** Advil, yes, sir is Ibuprofen
3 generic.

4 **Q** It is basically the same thing as
5 Ibuprofen?

6 **A** Yes.

7 **Q** Did you release him for regular
8 duty?

9 **A** Yes.

10 **Q** After that visit, did you notify
11 the City of Montgomery that you had any
12 concern about him performing his duties as
13 a fireman while taking any of these
14 medications that he reported or that you
15 prescribed?

16 **A** I did not.

17 **Q** Okay. When is the next time you
18 saw Mr. Haynes?

19 **A** Appears to be November the 9th of
20 2004.

21 (Whereupon, Plaintiff's Exhibit No. 4,
22 was marked for identification and the same
23 is attached hereto.)

1 **Q** I will show you what I have marked
2 as Plaintiff's Exhibit 4. Is that a copy
3 of your office note for that November 9th,
4 2004 visit?

5 **A** It is.

6 **Q** What was the purpose of that visit?

7 **A** Follow up on the knee injury.

8 **Q** And would you just tell us
9 generally what happened in that visit and
10 as a result of that visit?

11 **A** Basically stated he was still
12 having pain. He was having some problem
13 with his exercises and was unable to do
14 squats. Examined him again. Placed him
15 on medications. Scheduled him for some
16 physical therapy and placed him on light
17 duty.

18 **Q** What were the medications that you
19 placed him on?

20 **A** Placed him on Motrin and Skelaxin.

21 **Q** And was that eight hundred
22 milligram tablets of Motrin?

23 **A** Yes.

1 Q One tablet orally three times a day
2 for ten days?

3 A Yes.

4 Q So would that have been twenty-four
5 hundred milligrams of Motrin?

6 A Correct.

7 Q Per day?

8 A Yes.

9 Q And is Motrin the same thing as
10 Ibuprofen?

11 A Yeah.

12 Q This was a little stronger dose of
13 Motrin than he would of gotten over the
14 counter?

15 A Sure.

16 Q And then you also prescribed
17 Skelaxin?

18 A Uh-huh.

19 Q Is that a muscle relaxant?

20 A It is.

21 Q And you prescribed that for ten
22 days as well?

23 A Uh-huh.

1 Q What was the purpose of the
2 Skelaxin?

3 A Just to help relax the muscles
4 around the knee. And I was going to send
5 him for PT. So they work you pretty hard
6 when you do that.

7 Q Okay. And you said you placed him
8 on light duty at that point?

9 A Yes.

10 Q What was the reason for that?

11 A Because his knee was bothering him
12 with his activities and if it is bothering
13 him doing his activities, that will
14 certainly possibly hinder him or endanger
15 him working on the fire line.

16 Q And would you have notified the
17 City of Montgomery through one of these
18 authorization forms or some other way that
19 he was placed on light duty?

20 A Yes, sir.

21 Q And when was the next occasion that
22 you saw Mr. Haynes?

23 A 11/15 of 2004.

1 **Q** And tell us the purpose for that
2 visit?

3 **A** A follow up after the knee pain
4 that he is still having after physical
5 therapy. He was still having some pain.
6 He wasn't having pain with exercise. It
7 was only after exercising now. Examined
8 him. Basically same assessment and
9 continue with physical therapy and then
10 recheck him again in a week.

11 **Q** And you continued him on the same
12 medications --

13 **A** Yes.

14 **Q** -- as well?

15 **A** Yes.

16 **Q** And continued him on light duty?

17 **A** Yes.

18 **Q** Then when was the next time you saw
19 Mr. Haynes?

20 **A** 11/22/04.

21 **Q** And what was the purpose of that
22 visit?

23 **A** Follow up of the left knee injury

1 again.

2 **Q** And tell us just basically what
3 happened on that visit?

4 **A** He had finished his second week of
5 physical therapy. Not quite a hundred
6 percent but doing better but he was still
7 having a little pain immediately to
8 palpation of the knee. So at that time,
9 I ordered an MRI of his knee.

10 **Q** Okay. And did you continue him on
11 light duty at that point?

12 **A** Yes.

13 **Q** You said you ordered an MRI. Will
14 you tell us lay folks sort of what that
15 is?

16 **A** Simple terms a fancy x-ray to give
17 you a picture of the cartilage of the
18 knee, the ligaments of the knee.

19 **Q** And did you get some sort of report
20 on the MRI that was done?

21 **A** Yes.

22 **Q** What did it show?

23 **A** That MRI showed some degeneration

1 and questionable tear of the medial
2 meniscus, also noted a cyst there on the
3 MRI.

4 Q So what did you do as a result of
5 the MRI report?

6 A After seeing these results, I
7 wanted him to be re-evaluated further by
8 an orthopedist.

9 Q And did you recommend one or make
10 an appointment for him to go see one?

11 A Yes, we did.

12 Q Who was that?

13 A It was Dr. Wells.

14 Q And did you at some point receive
15 some type of report from Dr. Wells?

16 A Yes.

17 Q And would you tell us what that was
18 and when?

19 A The letter date is December 3rd of
20 2004. And his evaluation by Dr. Wells was
21 done on 12/03 of '04.

22 Q And basically what did he report to
23 you?

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1 **A** He reviewed his MRI. He said he
2 only had some minimal tenderness around
3 the medial joint line. He did x-rays.
4 They were considered normal for his age.
5 He didn't think that his meniscus
6 pathology was symptomatic enough to
7 warrant surgery. Any questions to read
8 by Dr. Warren. He was continuing with
9 his medications. He wanted to use the
10 ice. And he could return to his normal
11 activity at that time. Just to restrict
12 some of his activity off the job he states
13 there. And then return back to see him in
14 six weeks if needed.

15 **Q** So was he returned to full duty at
16 that time?

17 **A** That is what it looks like, yes.

18 **Q** It looks like a reference to
19 Indocin, I-N-D-O-C-I-N in Dr. Wells'
20 report. Was that a medicine that Dr.
21 Wells had prescribed?

22 **A** Yes.

23 **Q** Or is that another name for

1 something you prescribed?

2 **A** I think it is a medicine he
3 prescribed. It is not what I prescribed.
4 It is still an anti-inflammatory
5 medication.

6 **Q** Okay. But is it similar to Advil
7 or Motrin?

8 **A** It would be similar, yes, it would
9 be.

10 **Q** Now after that time when is the
11 next time that you saw Mr. Haynes?

12 **A** On 3/24/05.
13 (Whereupon, Plaintiff's Exhibit No. 5,
14 was marked for identification and the same
15 is attached hereto.)

16 **Q** Is Plaintiff's Exhibit 5 a copy of
17 your office notes from that visit?

18 **A** Yes, sir.

19 **Q** What was the purpose of this visit?

20 **A** He was sent in by the fire
21 department for a fit for duty evaluation.

22 **Q** And from looking at your records
23 that I have seen, I didn't see -- I didn't

1 see I don't believe an authorization like
2 we looked at before. Do you know whether
3 there would be one for this visit?

4 **A** For a return to work or a --

5 **Q** For a fitness for duty?

6 **A** Sometimes there are and sometime
7 there aren't because you are not -- you
8 need more information sometimes.
9 Sometimes they are not sent back at that
10 time because you don't have all the
11 information.

12 **Q** Okay. But what I am asking you is
13 did Mr. Haynes bring with him some form
14 from the City when he came in to see you
15 on March the 24th?

16 **A** I assume he did.

17 **Q** Did you have any conversation with
18 anyone from the City before this visit on
19 March the 24th?

20 **A** I don't recall.

21 **Q** You don't recall any conversation?

22 **A** No, I don't.

23 **Q** Would it be typical or atypical to

1 have a conversation, a verbal conversation
2 with someone from the City before they
3 send you a patient for a fitness for duty
4 exam?

5 **A** Usually they may not specifically
6 talk to me, but they will contact someone
7 in the office and then try to have all the
8 records and everything coordinated to be
9 here, but no discussion about the
10 situation.

11 **Q** No substantive discussion?

12 **A** No, no.

13 **Q** So, you wouldn't of had any
14 substantive information about Mr. Haynes
15 prior to the March the 24th visit as it
16 relates to the fitness for duty?

17 **A** Not unless I had medical records on
18 him. And then I would, you know, see what
19 he had listed there as to what we would be
20 looking at.

21 **Q** Did you do a physical exam on Mr.
22 Haynes on March the 24th?

23 **A** 24th all we did was obtain vital

1 signs. We did not have medical records at
2 that time. So we were to reschedule him.

3 Q Okay. Were the vital signs
4 normal?

5 A Sure, within normal limits.

6 Q But you said he didn't have medical
7 records with him at that time?

8 A Huh-uh.

9 Q So for that reason you rescheduled?

10 A Yes.

11 Q Do you remember any of your
12 discussion with Mr. Haynes on the 24th
13 that's not -- other than what's reported
14 in your notes?

15 A Nothing besides what's in the
16 notes, no.

17 Q And your notes reflect that he told
18 you medication that he was taking,
19 correct?

20 A Uh-huh.

21 Q And he said that those had been
22 prescribed by Dr. Wells, Palmer and
23 Teresa Brown?

1 **A** Yes.

2 **Q** You mentioned medical records. Did
3 Mr. Haynes sign an authorization for
4 release of records --

5 **A** Uh-huh.

6 **Q** -- on that date?

7 **A** See if I can find the date, yes.

8 **Q** And is that Plaintiff's Exhibit 6?

9 **A** Yes.

10 **Q** And that was in your file, right?

11 **A** Yes, sir.

12 **Q** And did that release authorize you
13 to receive medical records that you -- any
14 medical records that you needed or desired
15 on Mr. Haynes?

16 **A** Yes, sir.

17 **Q** So after the visit on the 24th and
18 the signing of that release, did you
19 obtain medical records on Mr. Haynes?

20 **A** We did obtain records. I don't
21 know if they are right after that or not.
22 We do have records from Wells -- and I
23 mean we do have records. So --

1 **Q** Okay. Can we go off the record for
2 just a minute?

3 (Whereupon, a brief discussion was had off
4 the record.)

5 **Q** Back on the record. Let me show
6 you some things and let's see if we can
7 figure out maybe what records you have got
8 shortly after March -- the March 24th
9 visit.

10 **A** Okay.
11 (Whereupon, Plaintiff's Exhibits No. 6 and
12 7, were marked for identification and the
13 same are attached hereto.)

14 **Q** Let me show you what I have marked
15 as Plaintiff's Exhibit 7 that I haven't
16 seen in your chart today. But does that
17 appear to be a fax from Dr. Palmer's
18 office to your office?

19 **A** Yes, sir.

20 **Q** So does it appear from that
21 document that Dr. Palmer faxed you or your
22 office some information on March the 28th,
23 2005?

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1 **A** Yes, sir.

2 **Q** That was four days after the visit
3 on the 24th?

4 **A** Yes, sir.

5 **Q** And it says that he faxed you four
6 pages including the cover sheet?

7 **A** Yes, sir.

8 **Q** Now, before I mark it, you have got
9 in front of you three pages that were
10 clipped together, don't you, that appear
11 to be from Dr. Palmer?

12 **A** Yes, sir.

13 **Q** Are these the records that you
14 think would have been faxed to you by his
15 office on April -- excuse me, on March
16 28th, 2005?

17 **A** I assume so. I questioned the last
18 one if it was April the --

19 **Q** Okay. That couldn't have been,
20 could it?

21 **A** Unless he could foresee the future.

22 **Q** Well, looking at it, the first two
23 pages have the --

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1 **A** Right, have the fax, yes.

2 **Q** Show that they were faxed to your
3 office on March the 28th, don't they?

4 **A** Right, they do.

5 **Q** And then the April 14th letter
6 doesn't show that, does it?

7 **A** I don't see that, no.

8 **Q** So would it be your opinion that
9 these first two documents that are -- have
10 a fax date of March the 28th were faxed to
11 you on that date?

12 **A** Yes.

13 **Q** And if -- or since Plaintiff's
14 Exhibit 7 says that there were four
15 including the cover sheet --

16 **A** Then there should be another one.

17 **Q** -- there should be another one,
18 shouldn't there?

19 **A** Yes.

20 **Q** Do you know right now what it was?

21 **A** I don't.

22 **Q** Let me go ahead and mark -- Off the
23 record.

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1 (Whereupon, a brief discussion was had off
2 the record.)

3 **Q** Doctor, I have marked as
4 Plaintiff's Exhibit 8 the two sheets that
5 we discussed earlier that have the fax
6 information that is showing they were
7 faxed from Dr. Palmer to you on March the
8 28th, 2005; is that correct?

9 **A** That's correct.
10 (Whereupon, Plaintiff's Exhibit No. 8,
11 was marked for identification and the same
12 is attached hereto.)

13 **Q** And these came from your office
14 records?

15 **A** Yes.

16 **Q** And that consisted of an office
17 note of Dr. Palmer seeing Mr. Haynes on
18 March the 28th, 2005?

19 **A** Yes.

20 **Q** And also a letter signed by Dr.
21 Palmer dated March 4th, 2005 concerning
22 Mr. Haynes?

23 **A** Correct.

1 MS. HIGHLEY: I am sorry. What was
2 the date on the letter?

3 MR. MILLER: March 4th, 2005.

4 Q And would it be correct that you
5 are not sure as we sit here right now
6 whether the other records that you have
7 were received during this time period or
8 not?

9 A Talking about the orthopedic
10 records?

11 Q Right.

12 A Hard to say because it came by mail
13 and it was done December 3rd. So we
14 dictated it, so it is hard to say.

15 Q And there is a -- there is one
16 record in Dr. Wells' record that is dated
17 in April, which was after the time period
18 that we are talking about, correct?

19 A For a separate issue, yes.

20 Q All right. And when was the next
21 time you saw Mr. Haynes?

22 A March 31st of '05.

23 Q And how did that visit come about?

1 Who had scheduled that?

2 **A** It would have come through the City
3 or the fire department.

4 (Whereupon, Plaintiff's Exhibit No. 9,
5 was marked for identification and the same
6 is attached hereto.)

7 **Q** Is Plaintiff's Exhibit 9 a copy of
8 your office notes from that March 31st,
9 2005 visit?

10 **A** It is. Yeah, it just looks
11 different printed. It is the same.

12 **Q** It is the same copy?

13 **A** It is a correct copy. It is just
14 condensed, so not everything is in line
15 like it is on here.

16 **Q** And this was the visit that you
17 wanted to have after you had obtained some
18 medical records on Mr. Haynes?

19 **A** Correct.

20 **Q** And again, the purpose of this
21 visit again was a fitness for duty
22 examination?

23 **A** (Witness nods head.)

1 **Q** Under medical where it says past
2 medical slash surgical history, do you see
3 that?

4 **A** Yes.

5 **Q** It has reported medications?

6 **A** Uh-huh.

7 **Q** And then it has medical. Where
8 did that information come from?

9 **A** Patient.

10 **Q** Okay. So he reported to you the
11 various medications that he was taking?

12 **A** Yes.

13 **Q** And he reported the medical history
14 to you?

15 **A** Yes.

16 **Q** Which included anxiety?

17 **A** Right.

18 **Q** As well as left knee injury slash
19 pain and a right foot injury?

20 **A** Yes.

21 **Q** And did you -- on March 31st did
22 you review letters and medications from
23 his treating physicians?

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1 **A** Yes.

2 **Q** What letters did you review?

3 **A** These by Dr. Palmer, yeah.

4 **Q** That would be -- well, when it says
5 letters plural, did you review the March
6 4th letter?

7 **A** Right.

8 **Q** Which is the second page of
9 Plaintiff's Exhibit 8?

10 **A** You would not have seen that on
11 that, no --

12 **Q** Well, yeah, sure.

13 **A** Yeah, I was thinking April.

14 **Q** That was the letter he had written
15 about three weeks before?

16 **A** Yes, sir.

17 **Q** And you did review that?

18 **A** Yes, sir.

19 **Q** And when you said letters plural,
20 do you know what other letter you might
21 have or you did review on from treating
22 physicians?

23 **A** Well, Dr. Wells would be the only

1 other one.

2 Q And you said reviewed medications
3 from treating physicians. Did you
4 actually review -- what did you actually
5 -- did you actually review medication
6 bottles?

7 A Well, asked him. And then what the
8 letters say.

9 Q Okay. Relied on what the letters
10 said as far as the medications?

11 A That's the best way to know.

12 Q Okay. Did Mr. Haynes receive a
13 drug test on that date as well?

14 A That, I don't know.

15 (Whereupon, Plaintiff's Exhibit No. 10 and
16 11 were marked for identification and the
17 same are attached hereto.)

18 Q All right. Let me show you show
19 you what I have marked as Plaintiff's
20 Exhibit 10 and 11. What is Plaintiff's
21 Exhibit 10 and 11?

22 A These are -- Exhibit 10 is the
23 psychometrics hair test report for Mr.

1 Haynes.

2 Q And that's what was collected March
3 31st, 2005 on this visit?

4 A Yes.

5 Q And in layman's terms this was a
6 drug test?

7 A Yes.

8 Q Or drug screening?

9 A Sure.

10 Q And is Plaintiff's Exhibit 11 a
11 memo to the City of Montgomery reporting
12 the results of that same drug test?

13 A That is true.

14 Q And does it show both of these that
15 it was a negative drug test?

16 A Yes.

17 (Whereupon, Plaintiff's Exhibit No. 12,
18 was marked for identification and the same
19 is attached hereto.)

20 Q And let me ask you if Plaintiff's
21 Exhibit 12 shows that your office had also
22 done a drug test on Mr. Haynes on
23 September 24th, 2004?

1 **A** Yes.

2 **Q** And was it negative as well?

3 **A** It was.

4 **Q** Plaintiff's Exhibit 13 is again
5 another memo to the City reflecting that
6 -- the negative results of that blood test
7 on September 24, 2004?

8 MS. HIGHLEY: 12.

9 **A** 12? Exhibit 12, yes.

10 **Q** All right. Exhibit 12. And that
11 was about roughly six months prior to the
12 March --

13 **A** Yes. I think that would have been
14 on his initial injury, his injury.
15 (Whereupon, Plaintiff's Exhibit No. 13,
16 was marked for identification and the same
17 is attached hereto.)

18 **Q** And is Plaintiff's Exhibit 13 a
19 report of a drug test on Mr. Haynes that
20 was done in January 2002?

21 **A** It is.

22 **Q** And it was negative as well?

23 **A** Yes, sir.

1 **Q** Going back to the visit on March
2 31st, 2005, did you do a physical exam on
3 that occasion?

4 **A** Yes, sir.

5 **Q** What did that reveal or let me
6 first ask if you would just describe what
7 you did as far as a physical exam is
8 concerned?

9 **A** Basically vital signs were
10 obtained, basic lungs, cardiovascular,
11 abdomen. And then he and I reviewed his
12 information from Dr. Palmer.

13 **Q** As far as the physical exam itself,
14 was everything normal?

15 **A** Within normal limits.

16 **Q** Did you find any physical
17 limitations at that time?

18 **A** No physical limitations as we would
19 describe it, no.

20 **Q** And did you conclude that Mr.
21 Haynes was physically fit for duty as a
22 firefighter?

23 **A** He was physically fit, yes.

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1 Physically fit.

2 Q And looking at your office notes,
3 you don't say in those notes that he
4 cannot return to the job as a firefighter,
5 do you?

6 A I do not specifically say that, no.
7 There are some questions there, yes.

8 Q You said you had some concerns,
9 right?

10 A Well, there are concerns. I mean
11 there are standards that you have to at
12 least look at. The question with him was
13 when is he taking these medications and
14 when is he not taking these medications.
15 And that is a big issue. When you look at
16 how Dr. Palmer prescribed it, it is every
17 day. And then you have a patient telling
18 you it is not every day. So those --
19 that's an issue.

20 Q Okay. And you end your notes
21 saying administrative decision is needed?

22 A Uh-huh.

23 Q Is that what it says?

1 **A** Yes.

2 **Q** What did you mean by that?

3 **A** Well, basically by standards if he
4 is on these medications every day, he is
5 not going to be able to be a fireman.

6 The question comes down to whether or not
7 he is truly on his medication every day or
8 he is not. Yet somebody can say I am not
9 an alcoholic and still, you know, drink on
10 the days they are off. That doesn't make
11 sense. To be on medication and then one
12 day not take them for thirty-six hours and
13 then take them again -- and there will be
14 some carry over effects. If he is on them
15 every day, then he does not have the
16 standard to drive the fire truck like he
17 wants to. So that is why there is an
18 administrative decision as to whether this
19 is -- you know, how do you deal with that?
20 That is tough.

21 **Q** But just to clarify, when you say
22 administrative decision is needed, you are
23 referring to the City of Montgomery?

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1 **A** Fire department, yeah.

2 **Q** Needing to make a decision on what
3 to do?

4 **A** Yeah.

5 **Q** Whether to return him to work or
6 not?

7 **A** Yeah.

8 **Q** You didn't make that or express
9 that decision in your notes, did you?

10 **A** I did not. It probably should
11 have been a little more clear. If he is
12 on the medicines, then he can't do it.

13 **Q** After you saw Mr. Haynes on March
14 the 31st, did you make any written report
15 or recommendation to the City?

16 **A** Besides what's here, not that I
17 recall.

18 **Q** Okay. Did you transmit when you
19 say what's here, are you referring to the
20 office notes?

21 **A** Yes, yes.

22 **Q** Did you actually send those office
23 notes to the City?

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1 **A** They would have been sent, yes.

2 **Q** That would have been your report?

3 **A** Yes.

4 **Q** After March the -- after the March
5 31st visit did you talk to anyone at the
6 City about Mr. Haynes?

7 **A** I don't recall.

8 **Q** Do you know John Carnell?

9 **A** I do.

10 **Q** Who is he?

11 **A** He is risk manager for the City of
12 Montgomery.

13 **Q** Did you talk to him after the March
14 31st visit?

15 **A** I may have. I don't specifically
16 remember a conversation, but I may have.

17 **Q** Did you ask the City for any
18 further information about Mr. Haynes?

19 **A** No.

20 **Q** Did you ask Mr. Haynes for any
21 further information?

22 **A** Not that I know of.

23 **Q** Were you expecting Mr. Haynes to

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1 provide you any further information?

2 **A** No.

3 **Q** Do you -- we have a letter here in
4 the record from Dr. Clemmie Palmer. Do
5 you know Dr. Palmer?

6 **A** Only know of Dr. Palmer. I don't
7 personally know Dr. Palmer.

8 **Q** Do you know him to be a
9 psychiatrist in the City of Montgomery?

10 **A** Yes.

11 **Q** And you did review his March 4,
12 2005 letter?

13 **A** Yes.

14 **Q** Could you just read that for the
15 record?

16 **A** Sure. Mr. Eddie Haynes is able
17 to work on the current medications,
18 Lexapro, Valium and Gabitril. He has not
19 had any side effects on these current
20 medications. Mr. Haynes is to take his
21 medication as prescribed. He was
22 instructed to take Valium as an as needed
23 basis. Mr. Haynes has no work restrictions

1 and should continue to perform his duties
2 at his current capacity. He has been
3 stable on his current medication and
4 working full time without difficulty. If
5 you have any concerns, do not hesitate to
6 call or write. Cordially, Clemmie Palmer.

7 Q Did you ever talk to Dr. Palmer
8 about Mr. Haynes?

9 A I did not.

10 Q Did you ever attempt to talk to Mr.
11 Palmer about Mr. Haynes?

12 A I did not.

13 Q Did you ever write Dr. Palmer a
14 letter about Mr. Haynes?

15 A No.

16 Q I believe you said you don't know
17 Dr. Palmer personally?

18 A No.

19 Q Do you know him by reputation?

20 A Not really.

21 Q And have you had other patients who
22 have been treated by Dr. Palmer?

23 A Not that I recall.

1 **Q** Have you ever referred any patients
2 to Dr. Palmer?

3 **A** Not that I recall.

4 **Q** Did you believe when you reviewed
5 Dr. Palmer's letter, did you believe what
6 he said in his letter that Mr. Haynes has
7 not had any side effects on his current
8 medications?

9 **A** I had no reason not to believe him.

10 **Q** Okay. And did you understand Dr.
11 Palmer had been Mr. Haynes' physician for
12 some period of time?

13 **A** Sure.

14 **Q** Did you recall how long that had
15 been?

16 **A** No.

17 **Q** Would that have been something you
18 would of asked Mr. Haynes?

19 **A** Not necessarily.

20 **Q** Okay. As Mr. Haynes' treating
21 physician, would Dr. Palmer have been in a
22 better position to know whether Mr.
23 Haynes was having side effects from his

1 medications than you would of been?

2 **A** Possibly. But there are standards
3 that I have to go by that he is not aware
4 of.

5 **Q** Okay. Do the -- did your concerns
6 about Mr. Haynes come from possible side
7 effects from the medications? Is that
8 what it boiled down to?

9 **A** Certainly. What these medications
10 can do in a safety sensitive, you know,
11 position that he has.

12 **Q** Okay. When you said what they can
13 do, are you talking about the side effects
14 --

15 **A** Sure.

16 **Q** -- of the medications?

17 **A** Sure.

18 **Q** And which medications was it that
19 concerned you?

20 **A** Well, certainly all of those in
21 combination concern you, being a
22 firefighter. The Lexapro, basically you
23 are going to have possibility for

1 increased sweating, dehydration. So
2 wearing a suit, wearing scuba gear is, you
3 know, going to preclude him to that. The
4 Valium, you are going to have possible
5 dizziness, somnolence, disorientation, the
6 same with the Gabitril. So those certainly
7 are things that have to be readily
8 considered when you are driving a fire
9 truck.

10 Q For Valium you mentioned the
11 possibility of dizziness and then you said
12 somnolence --

13 A Yeah, it means sleepy.

14 Q Possibility of sleepiness or
15 drowsiness?

16 A Drowsiness, sure.

17 Q And then you said possibility of
18 disorientation?

19 A Uh-huh.

20 Q And the same possibilities with the
21 Gabitril?

22 A Gabitril. And how they might
23 interact. That is something you -- I

1 don't know that you can put a, you know,
2 definite finger on.

3 Q Would that -- would the interaction
4 between the medications, would that vary
5 from individual to individual?

6 A Certainly could.

7 Q And can the side effects or lack of
8 side effects of one particular medication
9 vary from individual to individual?

10 A They can.

11 Q In other words, one person might
12 have a particular side effect from a
13 medication and another person not have it?

14 A It is possible.

15 Q Did you tell Mr. Haynes that you
16 were concerned about the Lexapro?

17 A I believe I voiced my concerns
18 about all of his medications.

19 Q When you say all, you mean Lexapro,
20 Valium and Gabitril? Are you including
21 Ibuprofen and Benadryl or what?

22 A Well, you know if you are on a --
23 Benadryl, he is not taking that on a --

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1 you know -- am I worried about it? Maybe.
2 But that is not something he is prescribed
3 on a daily basis.

4 **Q** Okay. Are there -- well, are
5 there any other medications that concern
6 you other than the Valium, the Gabitril
7 and the Lexapro?

8 **A** Not out of these prescribed by Dr.
9 Palmer, no. I mean I would have concerns
10 if is was constantly taking Skelaxin or a
11 pain medicine, but he has denied that, so
12 --

13 **Q** Skelaxin was one that you
14 prescribed?

15 **A** Initially, yes. Yes. And at this
16 point he really probably wasn't taking it.
17 Just a list of medications that he had
18 been on.

19 **Q** All right. So looking at the March
20 31st, 2005 office note, which is
21 Plaintiff's Exhibit 9 I believe, those
22 medications listed under medication
23 history aren't necessarily all medications

1 he was taking at that time?

2 **A** No. Because he had said he wasn't
3 taking the Lortab any more and those
4 medications that he had been given by
5 Wells for his knee pain.

6 **Q** And when you say Lortab, which one
7 of those is that?

8 **A** That is Hydrocodone.

9 **Q** Okay. And the DCN?

10 **A** Darvocet.

11 **Q** Did he say he wasn't taking that?

12 **A** He said he wasn't taking that.

13 **Q** And what about the Ibuprofen, was
14 he taking that?

15 **A** Not that I recall.

16 **Q** And was he still taking the
17 Skelaxin?

18 **A** Not that I recall.

19 **Q** So other than the Lexapro, Gabitril
20 and Valium, there was not anything else he
21 was regularly taking, was there?

22 **A** Right.

23 **Q** And of course he told you that the

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1 only one he was taking while he was on
2 duty was the Lexapro?

3 **A** Right.

4 **Q** Is that an antidepressant?

5 **A** It is antidepressant, antianxiety
6 medication.

7 **Q** Is it similar to Zoloft?

8 **A** It would be similar, yes.

9 **Q** Is it of the same family?

10 **A** It is an SSRI, Serotonin reuptake
11 inhibitor.

12 **Q** Is that the family or category of
13 medicine or medication that it would
14 belong to?

15 **A** Yes.

16 **Q** Is that distinguished from
17 something like an anticonvulsant or
18 narcotic?

19 **A** Yes.

20 **Q** What type of medication is
21 Gabitril?

22 **A** It is a narcotic acid derivative.

23 **Q** Did you say narcotic? Can you

1 spell that for us?

2 **A** N-e-p-c-o-t-i-c acid derivative.
3 Used many times as anticonvulsive
4 medication. And certainly some
5 psychiatrists use those in anxiety
6 disorders also.

7 **Q** Is that what Mr. Haynes told you
8 that he -- Dr. Palmer was prescribing it
9 for was anxiety?

10 **A** Yes. He wasn't taking it for
11 seizures or anything like that.

12 **Q** That is something you would of
13 questioned him about I assume?

14 **A** Yes.

15 **Q** And you were told it was not for
16 seizures?

17 **A** Right. Because he said he didn't
18 take it every day.

19 **Q** So is Gabitril a narcotic drug?

20 **A** No.

21 **Q** What type of drug is Valium?

22 **A** It is a benzodiazapine as a class,
23 also described as an anxiolytic I guess

1 sedative.

2 Q Is it a narcotic drug?

3 A It is not a narcotic.

4 Q And when we say narcotic drug are
5 we -- are you using that in a sense it is
6 derived from an opium?

7 A Opiate, yes. Basically like a
8 Lortab, those type of things.

9 Q Now I notice in your March 31st
10 office note you say these medication
11 effects could carry over to his duty time.
12 Do you see that?

13 A Right.

14 Q And you are indicating that there
15 is a possibility that they could, right?

16 A Sure.

17 Q And then later you say there are
18 safety issues for him driving a truck and
19 working on the fire line while under the
20 influence of these medications, though he
21 claims he does not take while on duty?

22 A Right.

23 Q You see that? When you say safety

1 issues is that another way of saying that
2 you had a concern about that?

3 **A** There is a concern, but there is
4 also a standard for that too. The issue
5 is is he taking them or not.

6 **Q** Okay.

7 **A** I mean if he is taking them, then
8 he is not on the fire line.

9 **Q** When you say he is not on the fire
10 line, you mean that you would not
11 recommend?

12 **A** He did not meet standard for it.

13 **Q** What standard are you referring to?

14 **A** The National Fire Protection
15 Association. And I think they have
16 probably been updated since his last one,
17 since this was done.

18 **Q** But your testimony is that the
19 National Fire Protection Association
20 standard would not permit him to work on
21 the fire line while taking these
22 medications?

23 **A** Yes. I can explain in more detail

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1 but, yes.

2 **Q** And you are referring again to the
3 Valium, the Gabitril and Lexapro?

4 **A** Yes.

5 **Q** And did you tell Mr. Haynes about
6 the National Fire Protection Association
7 standards?

8 **A** I am not sure if I specifically
9 mentioned those. I mean he was aware of
10 the issue of it being between him being on
11 them and not being on them, the
12 medications.

13 **Q** And he told you that he had never
14 never taken Valium or Gabitril while he
15 was on duty, didn't he?

16 **A** That is what he told me.

17 **Q** Did you believe him?

18 **A** You have to. You also have to look
19 at how the medicine is prescribed. And if
20 a doctor is prescribing it that way, then
21 he should write it that way. He shouldn't
22 write it for every day. But it is
23 prescribed every day.

1 **Q** Well, Dr. Palmer said the Valium
2 was as needed basis, did he not?

3 **A** He did. But in his note he has it
4 one twice a day, number sixty. So that
5 means he wrote it to be taken twice a day
6 every day with four refills.

7 **Q** And in his March 4th, 2000 letter
8 he said he was instructed to take Valium
9 on an as needed basis?

10 **A** Right. There is contradiction
11 between his letter and what he wrote on
12 his office note.

13 **Q** When you talked Mr. Haynes he said
14 he took it on an as needed basis, didn't
15 he?

16 **A** He said he did, yes.

17 **Q** And did not ever take it on duty?

18 **A** That is what he said.

19 **Q** It's correct is it not that the
20 National Fire Protection Association
21 standards are not -- they are not a
22 statute are they? They are not a law?

23 **A** They are a standard that the

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1 Montgomery Fire Department goes by in
2 their pre-employment and evaluations.

3 **Q** My question was they are not a
4 governmental statute, are they?

5 **A** I don't know that they are
6 governmental statute. I know they are
7 the standards that the Montgomery Fire
8 Department goes by.

9 **Q** They are not a governmental
10 regulation, are they?

11 **MS. HIGHLEY:** Object to the form of
12 the question.

13 **Q** Well, let me ask you this:

14 **A** I don't know the best way to answer
15 that question.

16 **Q** And we refer it to as NFPA, don't
17 we?

18 **A** Uh-huh.

19 **Q** You are familiar with that?

20 **A** Yeah.

21 **Q** The NFPA is not a governmental
22 body, is it?

23 **A** No.

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1 **Q** They don't have the authority to
2 make laws, do they?

3 **A** Not to make laws.

4 **Q** Or governmental regulations if they
5 are not a governmental entity, can they?

6 **A** Yeah, but they certainly can set
7 standards. And if you adopt the
8 standards, you have to be consistent
9 throughout.

10 **Q** Is it your understanding that the
11 City of Montgomery Fire Department has
12 adopted the NFPA standards?

13 **A** Yes.

14 **Q** Would your opinions be different if
15 you were aware that the City of Montgomery
16 had not adopted the NFPA standards?

17 **A** Would my opinions in the
18 evaluation?

19 **Q** The opinions that you have
20 expressed that the standards -- that Mr.
21 Haynes couldn't meet standards?

22 **A** Well, you can't meet a standard if
23 there is not a standard. So that's a gray

1 area. I could say one thing and another
2 doctor can say something else and another
3 can say another thing. One may not have a
4 concern. One may not understand what
5 they do.

6 **Q** Is it your understanding that the
7 NFPA standards would override the
8 Americans With Disabilities Act?

9 MS. HIGHLEY: Object to the form of
10 the question.

11 **A** I don't know what disability he
12 would have.

13 **Q** All right. But my question is is
14 it your understanding that the NFPA
15 standards override the Americans With
16 Disabilities Act?

17 MS. HIGHLEY: Object to the form.

18 **A** Doesn't override it, but you're --
19 comparing an apple to an orange. That
20 makes no sense.

21 **Q** If -- isn't it true if there were a
22 conflict between the two, that Federal Law
23 as expressed in the Americans With

1 Disabilities Act --

2 MS. HIGHLEY: Object to the form of
3 the question.

4 Q -- would override the NFPA?

5 A I am certain it would.

6 Q Are you aware of any governmental
7 statute or governmental regulation that
8 would prohibit a person taking Valium,
9 Gabitril or Lexapro from driving a
10 vehicle?

11 A Well, if you are talking you know--
12 what do you mean government? I mean you
13 are getting into The Department of
14 Transportation. There are certainly
15 limitations certainly.

16 Q Okay. Are you referring to things
17 like requirements for a commercial
18 vehicle?

19 A Sure.

20 Q Commercial driver's license?

21 A Sure. Sure.

22 Q But are you aware -- is there any
23 governmental statute or governmental

1 regulation that would prohibit a person
2 taking Valium, Gabitril or Lexapro from
3 driving any vehicle?

4 **A** Not that I am -- not in his
5 situation, no.

6 **Q** Okay. And as far as driving a
7 fire truck, are there any statutes that
8 you are aware of that would prohibit a
9 person from taking one of these
10 medications from driving a fire truck?

11 **A** A federal regulation statute or a
12 --

13 **Q** A statute -- a governmental
14 statute or regulation?

15 **A** Not that I know of.

16 **Q** Is there any governmental statute
17 or governmental regulation that would
18 prohibit a person from taking one of these
19 medications from working as a firefighter?

20 **A** That, I don't know.

21 **Q** Is there any governmental statute
22 or governmental regulation that would
23 prohibit a person --

1 MS. HIGHLEY: Object to the form of
2 the question.

3 Q -- taking one of these medications
4 from working in a public safety job?

5 A That, I don't know.

6 Q Now you refer in your March 31st
7 notes, you use the word driving a truck --
8 safety issues for him driving a truck?

9 A Uh-huh.

10 Q Do you see that?

11 A Yes.

12 Q Would you have cleared Mr. Haynes
13 for any job that involved driving a
14 vehicle of any sort?

15 A At this point, there would have
16 been -- even if I was doing for a DOT
17 physical or something like that, is that
18 what you mean? Then I would have -- yeah,
19 I would have reservations and he probably
20 would not be cleared at this time.

21 Q I guess what I am asking is would
22 you have had the same issue if it was
23 driving a -- a vehicle that was not a fire

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1 truck? Was it the fact that it was a
2 fire truck that had -- was a determining
3 factor? Would you have cleared him for
4 driving a different kind of truck other
5 than a fire truck?

6 **A** I am not following -- I mean under
7 federal regulations if I am doing that
8 type of physical, no. It will not be
9 cleared. There is a lot of issues there.

10 **Q** You mention also there in your
11 notes working on the fire line?

12 **A** Uh-huh.

13 **Q** What was it about working on the
14 fire line that concerned you?

15 **A** First of all, combination of these
16 medicines, if he is, you know, on these
17 medications. You have got his drowsiness,
18 sleepiness, dizziness, you know, heat,
19 stress related issues.

20 **Q** I guess what I am asking about is
21 what is it about the environment of the
22 fire line that concerns you?

23 **A** It is a very strenuous job.

1 **Q** Okay. You mean physically
2 strenuous?

3 **A** Physically and mentally.

4 **Q** Would you have cleared him for any
5 type of strenuous job or would you have
6 disqualified him for all strenuous
7 activities?

8 **A** I think it is impossible to answer
9 that question because I don't know if he
10 is truly taking the medicine every day
11 like he says he is prescribed or he is
12 not. But you have still got a carry over
13 effect.

14 **Q** In writing your office notes about
15 Mr. Haynes after the fitness for duty
16 examination, did you review any medical
17 studies or any scientific studies about
18 the likelihood of side effects from taking
19 Valium, Gabitril or Lexapro?

20 **A** Just my basic knowledge of those
21 medications and the side effects.

22 **Q** Right. But what I am not -- I am
23 not asking you about your basic knowledge?

1 **A** I did not review anything else
2 besides using my basic knowledge for those
3 things.

4 **Q** Okay. But so in other words to be
5 clear, in writing your office notes, which
6 you then sent to the City of Montgomery,
7 you didn't review any medical studies or
8 scientific studies?

9 **A** No.

10 **Q** Do you have any studies in your
11 office that deal with that subject about
12 the likelihood of particular side effects
13 from Valium or Gabitril or Lexapro?

14 **A** I don't know that I have any
15 studies.

16 **Q** Have you ever seen any studies like
17 that?

18 **A** I have no idea. I mean not that I
19 recall off the top of my head. I mean I
20 have not looked for any.

21 **Q** Are you aware of any studies that
22 deal with how likely it is or not that a
23 person taking Valium or Gabitril or

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1 Lexapro will have some particular side
2 effect?

3 A No.

4 Q Are you aware of any medical
5 studies or scientific studies that measure
6 or test the capabilities of persons taking
7 Valium or Gabitril or Lexapro?

8 A No.

9 Q And I guess the next to last
10 sentence of your office notes from March
11 31st you said the only way to prove it was
12 seeing him taking the medication while on
13 duty. Do you see that?

14 A Yes.

15 Q By that did you mean the only way
16 to prove whether he was taking it while,
17 those medications while on duty, would be

18 --

19 A To observe it. Right. Pretty
20 much, yeah.

21 Q Is that what you are trying to say
22 there?

23 A Yeah.

1 **Q** What is a functional capacities
2 screening or screener?

3 **A** Functional, what do you mean? Are
4 you talking about like a functional
5 capacity evaluation? Is that what you are
6 talking about?

7 **Q** Yeah. I have heard the term
8 functional -- I have heard the term
9 functional capacity screener. Are you
10 familiar with that term?

11 **A** I am not familiar with that term.

12 **Q** You are familiar with the
13 functional capacities evaluation?

14 **A** Sure.

15 **Q** All right.

16 **A** And I have just never heard them
17 called a screener.

18 **Q** All right. And I -- you know, you
19 would know a lot more than I would. I was
20 just assuming that the screener would be
21 like a precursor to the actual evaluation
22 or something like that?

23 **A** Not always. Depending on the

1 situation.

2 Q Okay.

3 A I mean --

4 Q Well, let's just -- let me just ask
5 you about functional capacity evaluations
6 and those are referred to as an FCE a lot
7 of times?

8 A Uh-huh.

9 Q What is that?

10 A It is an evaluation done usually
11 with either a physical or occupational
12 therapist. Several tests are performed
13 depending on the specific therapist or the
14 place where they are sent. Looking at
15 their ability to do certain tasks ranging
16 from grip strengths, lifting, bending,
17 squatting, pushing, pulling, their blood
18 pressure as those things are performed, if
19 they state that they are having any pain
20 complications and then it -- in their
21 formula it gives you a validity score as
22 to whether or not the patient is honest in
23 their assessment and what they truly

1 perform.

2 Q Is it basically a series of actual
3 physical tests and testing to see if a
4 patient has the physical capacities or
5 maybe even mental capacities to do certain
6 things?

7 A Sure.

8 Q Was that done for Mr. Haynes?

9 A No.

10 Q Did you do anything to determine if
11 Mr. Haynes was actually having any side
12 effects from these medications?

13 A No.

14 Q Did you do any test to determine
15 his mental functioning?

16 A Not -- no. No specific tests,
17 besides reading that his psychiatrist
18 feels that he is able to perform his
19 normal duties.

20 Q Okay. But other than reading
21 that, in your examination of him, you
22 didn't do any testing --

23 A No.

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1 **Q** -- of his mental functioning?

2 **A** No.

3 **Q** Did you do any testing of his
4 reflexes?

5 **A** No.

6 **Q** Or his reaction times?

7 **A** Huh-uh.

8 **Q** Did you do any testing of his
9 driving ability?

10 **A** No.

11 **Q** Or any kind of test that would
12 measure driving ability?

13 **A** No.

14 **Q** Why did you not do any of those
15 things?

16 **A** Because by the standard, if he is
17 on these medications, it stops right
18 there.

19 **Q** Okay.

20 **A** I mean that is the whole issue. It
21 stops right there.

22 **Q** Would those -- I mean if they were
23 appropriate for anybody to do those

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1 things, would it have been appropriate for
2 you to do them or for the City to do those
3 things?

4 **A** To perform?

5 **Q** Actual testing of driving ability
6 let's say?

7 **A** If it was deemed necessary, then it
8 could be performed.

9 **Q** By who?

10 **A** By me.

11 **Q** And you have the ability to do
12 testing of reaction times and reflexes?

13 **A** Well, reflexes I mean we could --
14 if we had to have a functional capacity
15 evaluation and test all those things, they
16 could certainly be tested.

17 **Q** So a functional capacities
18 evaluation could test the person's
19 reflexes and reaction times?

20 **A** It would see the speed with which
21 he performed certain tasks, yes. Of course
22 it depends on if he is on medications or
23 not, which we don't know. And would the

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1 test be accurate.

2 Q What did you tell Mr. Haynes at
3 the end of his examination on March 31st?

4 A That there was going to have to be
5 further decision due to the situation what
6 is stated and what is, you know --

7 Q A decision by the City?

8 A Yes. Because if he is on them,
9 there is no question, there is no chance.
10 But you run a risk there. You do. If he
11 took Valium at night and then came to work
12 the next morning, how can he not be
13 affected.

14 Q Well, that would depend on how he
15 reacted to the medication, correct?

16 A Well, possibly.

17 Q People react in different ways to
18 medications?

19 A Possibly. That is why there is a
20 standard though.

21 Q After the March 31st examination
22 did you talk to anyone verbally with the
23 City about it?

1 **A** I don't recall.

2 **Q** Do you recall whether or not you
3 talked to John Carnell?

4 **A** I don't. I may have. I don't
5 recall.

6 **Q** Do you recall whether you talked to
7 anyone in the City attorney's office?

8 **A** No.

9 **Q** No means you didn't or you don't
10 recall?

11 **A** I did not talk to anybody in the
12 City attorney's office. I know that.

13 **Q** Was it significant to you that Dr.
14 Palmer stated that Mr. Haynes had not had
15 any side effects from his medications?

16 **A** It is.

17 **Q** Like I mean, I take it from your
18 testimony it didn't matter because of the
19 standards?

20 **A** Well, due to the standards, I mean
21 --

22 **Q** Would that be correct?

23 **A** Yes.

1 **Q** It did matter?

2 **A** Well, it matters, but there is
3 still a standard that is in effect. If
4 he is taken off the medications and not on
5 them, that is fine. There is no problem.
6 (Whereupon, Plaintiff's Exhibit No. 14,
7 was marked for identification and the same
8 is attached hereto.)

9 **Q** Let's -- my next one will be 14.
10 You do have Plaintiff's Exhibit 14 in your
11 chart, do you not?

12 **A** I do.

13 **Q** Appears to be a letter from Dr.
14 Palmer dated April 14?

15 **A** Correct.

16 **Q** And in -- so, you received that at
17 some point from Dr. Palmer?

18 **A** Uh-huh.

19 **Q** And that letter he says that Mr.
20 Haynes is able to work without taking
21 Valium or Gabitril?

22 **A** Uh-huh.

23 **Q** Would that be significant to you?

1 **A** It is. But he still has his
2 prescriptions sitting there at the
3 pharmacy. And he sill has them prescribed
4 every day. And if he doesn't take them,
5 we don't have an issue with that. We still
6 have an issue with the Lexapro and the
7 heat problem. But we don't have an issue.

8 **Q** And did you testify earlier what
9 kind of medication Lexapro is?

10 **A** A Serotonin reuptake inhibitor.

11 **Q** After March 31st, 2005, when did
12 you next see Mr. Haynes?

13 **A** April the 12th.

14 **Q** Okay. And what was the purpose of
15 that visit?

16 **A** This time he came back in
17 complained that his knee was acting up
18 again and it bothered him.

19 **Q** And what did you do at that point?

20 **A** At that time, I changed the
21 medications, put him on a little Celebrex
22 and rescheduled him to see Dr. Wells
23 again.

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1 **Q** Okay. And after that point when
2 did you next see Mr. Haynes?

3 **A** 5/25/06.

4 **Q** So that would be a year later
5 approximately?

6 **A** I assume that's -- yeah, I guess.
7 (Whereupon, Plaintiff's Exhibit No. 15,
8 was marked for identification and the same
9 is attached hereto.)

10 **Q** And is Plaintiff's 15 a rather poor
11 copy of your office note from that date?

12 **A** It is a small copy, yes. Not
13 poor.

14 **Q** And the -- what was the purpose of
15 that examination or visit?

16 **A** Fit for duty again.

17 **Q** Okay. Do you know who made that
18 appointment or how that came about?

19 **A** It would have been through the City
20 or the fire department.

21 **Q** And at this time you had not seen
22 Mr. Haynes in about a year?

23 **A** Right.

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1 **Q** Did you do a physical exam on that
2 occasion?

3 **A** No. Basically went back just
4 through his history. I mean that is what
5 we are dealing with again.

6 **Q** Did you do vital signs?

7 **A** We did do vital signs, sure.

8 **Q** And you didn't find anything
9 abnormal?

10 **A** His blood pressure may be a little
11 elevated that day, but whose wouldn't be
12 when you come in for this.

13 **Q** Not for anything that would
14 disqualify him from working?

15 **A** If we were looking for that, then
16 we would recheck him after he sat for
17 twenty minutes and he would, you know --
18 that would not be his final pressure right
19 there if that is what we were looking at.

20 **Q** And you noted on that occasion in
21 your notes that he was still physically
22 fit for duty?

23 **A** Uh-huh.

BIRMINGHAM REPORTING SERVICE

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1 **Q** But nothing had changed?

2 **A** Right.

3 **Q** Correct? Meaning that he was still
4 taking Lexapro, Valium and Gabitril?

5 **A** Right.

6 **Q** And also it says Flexeril?

7 **A** Uh-huh.

8 **Q** What is that?

9 **A** That is a muscle relaxer.

10 **Q** So that is a -- he was taking fewer
11 medications perhaps or basically the --

12 **A** Basically the same.

13 **Q** The same, but with a different
14 muscle relaxer?

15 **A** Right.

16 **Q** And your concerned centered on
17 Lexapro, Valium and Gabitril, didn't it?

18 **A** Yes. And of course the Flexeril is
19 more potent than Skelaxin in causing
20 sleepiness, drowsiness, reaction times,
21 all those things.

22 **Q** And it is a muscle relaxant?

23 **A** Yes.

1 **Q** And he said that he did not take
2 them while at work?

3 **A** Right.

4 **Q** And you still felt that it could
5 that those -- the side effects -- would it
6 be fair to say you felt the side effects
7 of those medications could affect his
8 performance while on duty?

9 **A** Certainly.

10 **Q** In stating that, again like the
11 prior time, did you consult any medical
12 studies or scientific studies about the
13 likelihood of particular side effects from
14 those particular medications?

15 **A** No.

16 **Q** Did you do an -- or did you order a
17 functional capacities evaluation for Mr.
18 Haynes to see what his actual capabilities
19 were?

20 **A** No.

21 **Q** Did you do any testing or order any
22 testing to determine his mental
23 functioning?

BIRMINGHAM REPORTING SERVICE

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1 **A** No.

2 **Q** Or his reflexes?

3 **A** No.

4 **Q** Or his reaction times?

5 **A** No.

6 **Q** Or his driving abilities?

7 **A** No.

8 **Q** And then again, on March -- no --
9 let me strike that. On May 25th, 2006 did
10 you again say there must be an
11 administrative decision with this case?

12 **A** Right.

13 **Q** Meaning the City had to decide
14 whether to return him to work?

15 **A** The fire department or the City due
16 to this issue of whether or not he is
17 taking this medication or not. If he is,
18 then there is not a question with it.

19 **Q** And when you say the fire
20 department or the City, the fire
21 department is part of the City, right?

22 **A** Sure.

23 (Whereupon, Plaintiff's Exhibit No. 16,

BIRMINGHAM REPORTING SERVICE

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1 was marked for identification and the same
2 is attached hereto.)

3 **Q** Is Plaintiff's Exhibit 16 a
4 certificate to return to work from your
5 office for Mr. Haynes dated after this
6 visit which is May 25, 2006?

7 **A** Yes.

8 **Q** And that came from your office?

9 **A** Yes.

10 **Q** And it was authorized by you?

11 **A** Yes.

12 **Q** And it says he would be able to
13 return to work to be --

14 **A** To be determined by employer.

15 **Q** -- to be determined by employer?

16 **A** Yeah.

17 **Q** TBD by employer?

18 **A** Yes.

19 **Q** Which means to be determined by
20 employer?

21 **A** Sure.

22 **Q** And that was accurate, right?

23 **A** Yes.

BIRMINGHAM REPORTING SERVICE

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1 **Q** Was there any information or
2 anything that you asked Mr. Haynes for
3 that on May the 25th, 2006 that he didn't
4 give you?

5 **A** No.

6 **Q** Was there any further information
7 you needed from Mr. Haynes?

8 **A** Not any further than I already had.

9 **Q** Or any further information you
10 needed from any of his doctors?

11 **A** Not if he says he is taking those
12 medications still.

13 **Q** When you had -- you had the
14 information you needed, right?

15 **A** Right.

16 **Q** You didn't ask for any further
17 information from Mr. Haynes or from the
18 City, did you?

19 **A** No.

20 **Q** Have you ever seen a job
21 description or description of duties for
22 the City of Montgomery firefighter
23 position?

1 **A** Yes, I do believe so.

2 (Whereupon, Plaintiff's Exhibit No. 17,
3 was marked for identification and the same
4 is attached hereto.)

5 **Q** Does Plaintiff's Exhibit 17 appear
6 to be a listing of duties for the
7 firefighter position for the City of
8 Montgomery Fire Department?

9 **A** I couldn't tell you for sure, I
10 mean --

11 **Q** Let's -- I will represent that it
12 is a document that --

13 **A** It is not the whole document.

14 **Q** Well, I will represent it is a
15 document that was presented or produced to
16 me during the course of this case by the
17 City of Montgomery Fire Department.

18 **A** Okay.

19 **Q** If you will review that for a
20 minute, I am just going to ask you if
21 there is anything in here about driving a
22 fire engine as a duty.

23 **A** What was your question again?

1 **Q** Is there anything on Plaintiff's
2 Exhibit 17 that mentions firefighting as
3 being a duty? I mean, excuse me. That
4 mentions driving as being a duty of a
5 firefighter?

6 **A** Not specifically, no.

7 **Q** In your fitness for duty
8 examinations of Mr. Haynes did you
9 consider whether the firefighter job could
10 have been modified so that Mr. Haynes
11 could have performed it? Did you ever
12 consider that?

13 **A** Yes. I went by the standard. By
14 the standard there is certain things he
15 can't do. And then you have to take into
16 consideration the effect of the medicine
17 for the heat exhaustion, the heat stress
18 that is involved. And when you do that,
19 then that eliminates most of the other
20 standards. Even the newer standards have
21 gone to say when you are on those
22 medications none of them you can do.

23 **Q** When you examined Mr. Haynes on

1 March 31st, 2005 and wrote your office
2 notes, did you consult the standard that
3 day when you wrote the note?

4 **A** I am sure I did.

5 **Q** And did you consult it again on May
6 25, 2006?

7 **A** I would think so.

8 **Q** And you are referring to an NFPA
9 standard?

10 **A** Yes.

11 **Q** Can you site the standard for me
12 that you were referring to?

13 **A** I have the one that they were under
14 at that time.

15 **Q** And what is -- what is the site of
16 it?

17 **A** I brought it for you. Let's see
18 -- what do you mean by the site of it?
19 What do you mean?

20 **Q** Well, off the record.
21 (Whereupon, a brief discussion was had off
22 the record.)

23 **Q** I will just look at it.

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1 **A** Okay.

2 **Q** And the document that you have
3 given me at the top says NFPA 1582,
4 correct?

5 **A** Yes.

6 **Q** And it says at the top May 2003
7 ROP?

8 **A** Correct.

9 **Q** What does ROP mean?

10 **A** I don't know.

11 **Q** And every page of it is marked
12 draft, correct?

13 **A** Right.

14 **Q** So this appears to be a draft of
15 NFPA 1582?

16 **A** Uh-huh.

17 **Q** And is this the version that you
18 you would of consulted in --

19 **A** Yes.

20 **Q** -- in March of 2004 when you -- or
21 after you examined Mr. Haynes?

22 **A** Right.

23 **Q** And where did you get this draft?

1 **A** The fire department has provided
2 those as they adopt the standards.

3 **Q** Did the fire -- who was the fire
4 chief in 2004?

5 **A** That would have been McKey.

6 **Q** And he has since retired, correct?

7 **A** Yes.

8 **Q** Did McKey tell you that the City of
9 Montgomery had adopted the NFPA standards?

10 **A** As I recall.

11 **Q** That is your understanding?

12 **A** That is my understanding.

13 **Q** And your -- basically the
14 conclusion and opinions that you have
15 expressed today about Mr. Haynes are
16 based on your understanding that the City
17 of Montgomery adopted that standard?

18 **A** Right.

19 **Q** Have you ever seen any record
20 stating that the City of Montgomery or the
21 City of Montgomery Fire Department had
22 adopted that standard?

23 **A** Not that I know of.

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1 **Q** Okay. I think that's all I have.
2 Thank you.

3
4 EXAMINATION BY MS. HIGHLEY:

5 **Q** I just have a couple. Dr. Turner,
6 if you could thinking back to all of the
7 drugs that we have talked about Mr.
8 Haynes being prescribed today --

9 **A** Uh-huh.

10 **Q** -- would you characterize any of
11 them as cocaine?

12 **A** No.

13 **Q** Would you characterize any of them
14 as opiates? Other than the Hydrocodone
15 that you have already identified

16 **A** No. Other than the Hydrocodone,
17 no.

18 **Q** Would you classify any of those
19 drugs as PCP?

20 **A** No.

21 **Q** Would you classify any of those as
22 amphetamines?

23 **A** No.

1 **Q** And would you classify any of those
2 as marijuana?

3 **A** No.

4 **Q** In the letters -- the two letters
5 from Dr. Palmer, would the source of
6 information for Dr. Palmer have likely
7 been the patient? Is that where Dr.
8 Palmer probably got his information?

9 MR. MILLER: I object to the form as
10 to what most likely the source.

11 **A** I am not sure I understand the
12 question.

13 **Q** In the letter where Dr. Palmer
14 states that Eddie Haynes has not
15 experienced any side effects, where would
16 that information have come from?

17 **A** Come from the patient.

18 **Q** And is it possible that Eddie
19 Haynes was lying? Was it possible?

20 **A** It is possible.

21 **Q** I think that's it. That is all I
22 have.

23 EXAMINATION BY MR. MILLER:

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1 **Q** Isn't it correct also, Doctor, that
2 a doctor evaluates what he sees when the
3 patient is in front of him for an
4 examination?

5 **A** Yes.

6 **Q** In particularly a psychiatrist will
7 evaluate the mood and level of
8 consciousness and interview behavior and
9 speech and thought process and thought
10 content of a patient?

11 **A** Sure.

12 **Q** And your -- the notes that you had
13 from Dr. Palmer indicated that he
14 evaluated those things when he saw Mr.
15 Haynes, didn't he?

16 **A** Yes.

17 **Q** And you would expect that he would
18 do that as a psychiatrist, wouldn't you?

19 **A** Sure.

20 **Q** And if Dr. Palmer had seen Mr.
21 Haynes and the Valium and the Gabitril had
22 been prescribed by Dr. Haynes(sic) since
23 2002, from 2002 up until the spring of

1 2005, then he would of had a considerable
2 period of time to observe Mr. Haynes,
3 would he not?

4 **A** I assume so if you -- you said Dr.
5 Haynes. You mean Dr. Palmer?

6 **Q** Dr. Palmer?

7 **A** Okay. I assume so. Does it
8 state that he had seen him that long?

9 **Q** Well, we don't have that in front
10 of us. But assuming that there was
11 evidence that Dr. Palmer had seen Mr.
12 Haynes since November of 2002 --

13 **A** Uh-huh.

14 **Q** -- then he would of had a
15 considerable period of time to observe him
16 and his side effects or lack there of on
17 these medications, would he not?

18 **A** Maybe so. I mean he is not with
19 him every day. So you wouldn't know.

20 **Q** But he would of -- if he saw him
21 say monthly, he would of had a
22 considerable number of times to observe
23 him, would he not?

1 **A** Yeah.

2 MS. HIGHLEY: Object to the form of
3 the question.

4 **A** Still based on a lot on the
5 patients subjective findings.

6 **Q** And I guess the best source of
7 information on what -- or how these
8 medications were affecting Mr. Haynes and
9 if he was having any side effects, the
10 best source of that information would be
11 observations of Mr. Haynes on the job,
12 wouldn't it?

13 **A** Yes. But would you take that
14 chance if he is on those medicines?

15 **Q** All right. Would it be
16 significant to you if Mr. Haynes had been
17 prescribed these medications for over two
18 years, but let's say for a year and a half
19 by Dr. Palmer and had worked in the duties
20 doing all the duties of a firefighter
21 during that period of time without any
22 adverse effects --

23 MS. HIGHLEY: Object to the form.

1 **Q** -- would that be significant to
2 you?

3 MS. HIGHLEY: Object to the form of
4 the question.

5 **A** You would have to take it into
6 consideration.

7 **Q** That's all.
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C E R T I F I C A T E

State of Alabama

Jefferson County

I hereby certify that the above and foregoing deposition was taken down by me in stenotype and the questions and answers thereto were transcribed by means of computer-aided transcription, and that the foregoing represents a true and correct transcript of the testimony given by said witness upon said hearing.

I further certify that I am neither of counsel, nor of kin to the parties to the action, nor am I in anywise interested in the result of said cause.

Krista Price

Eddie Haynes 6340

9/24/2007

1 Note 9/14/2004 2:46:00 PM

Eddie Haynes, Gender: M, DOB: 8/17/1970, Encounter Date and Time: 9/14/2004 02:46PM, Examiner: Michael C. Turner, DO

Chief complaint

The Chief Complaint is: New injury--(L) knee pain.

Past medical/surgical history

Reported History:

Reported medications: Taking medication Zoloft; Valium prn; seizure Rx prn. A recent immunization for tetanus Done in military; date unknown; pt feels within time frame.

Physical trauma: Physical trauma 9/13/2004 Pt states he was getting in the car after getting food for the fireman and twisted his (L) knee. No previous injury to knee. Is still able to walk, stoop, etc but just feels pain in this knee--dc.

Personal history

Work: Work history Employed for COM Fire Dept as Fireman x 14 years.

Physical findings

Vital signs:

- SBP 130/85 mmHg.

No evidence of edema, negative Drawer, Lachman and McMurray. Mild tenderness over medial knee.

Assessment

Michael C. Turner, DO made the following assessments

- Knee sprain

Allergies

An allergy Cipro.

Plan

Patient may take OTC Advil, ice as directed. He may continue with regular duty and return as needed.



Eddie Haynes 6340

9/24/2007

1 11/9/2004 11:10:00 AM

Eddie Haynes, Gender: M, DOB: 8/17/1970, Encounter Date and Time: 11/09/2004 11:10AM, Examiner: Michael C. Turner, DO

Chief complaint

The Chief Complaint is: F/up knee injury

Past medical/surgical history

Reported History:

Reported medications: Medication history Valium; Zoloft.

Physical trauma: Physical trauma 9/14/2004 Pt here for reck of (L) knee injury. States his knee has never really stopped hurting. States his knee really began hurting after he exercises and/or runs. Also states he is unable to do squats. Never had P.T. ---dc.

Personal history

Work: Work history Employed by COMFD x 15 years.

Physical findings

Vital signs:

Vital Signs/Measurements

Value

PR

84 bpm

Blood pressure

132/84 mmHg

Negative drawer, Lachman and McMurray by exam. Mild pain with valgus strain. No evidence of edema.

Assessment

Michael C. Turner, DO made the following assessments

Knee joint pain.

Allergies

An allergy Cipro.

Plan

Michael C. Turner, DO ordered the following therapy

- Physical therapy evaluation

Motrin 800 mg tablet. SIG: 1 TAB orally 3 times a day for 10 day(s) 3 times a day. Dispense: 30 TAB. Refill: 0.

Skelaxin 800 mg tablet. SIG: 1 TAB orally 2 times a day for 10 day(s) 1 after work and 1 at bedtime.. Dispense: 20 tab(s). Refill: 0.

Patient is placed on medications and is schedukled for PT. He is placed on light duty and we will recheck in one week.

Eddie Haynes 6340

9/24/2007

1 11/15/2004 3:37:00 PM

Eddie Haynes, Gender: M, DOB: 8/17/1970, Encounter Date and Time: 11/15/2004 03:37PM, Examiner: Michael C. Turner, DO

Chief complaint

The Chief Complaint is: F/up (L) knee injury.

History of present illness

Eddie Haynes is a 34 year old male.

- Knee joint pain which is improving.

Pt here for f/up of (L) knee injury. States his knee still has pain; usually no pain with exercise; only has pain after exercising. Has not started back running yet. Has gone to P.T; they recommend continuing x one more week qod.--dc.

Personal history

Work: Work history Employed by COMFD x 15 years

Physical findings

Vital signs:

Vital Signs/Measurements

Value

PR

92 bpm

Blood pressure

140/86 mmHg

On exam patient has medial knee pain, negative Lachman and Drawer, questionable McMurray.

Plan

Patient is to continue with meds and PT. Recheck in one week.

Eddie Haynes 6340

9/24/2007

1 11/22/2004 9:55:00 AM

Eddie Haynes, Gender: M, DOB: 8/17/1970, Encounter Date and Time: 11/22/2004 09:55AM, Examiner: Michael C. Turner, DO

Chief complaint

The Chief Complaint is: F/up (L)knee injury.

History of present illness

Eddie Haynes is a 34 year old male.

- Knee joint pain which is failing to change as expected.

Pt here for recheck of (L) knee injury. Has completed P.T. Was told by therapist that it would probably take time for his knee to get back to 100%. Was also instructed by therapist to get back into his exercise routine; was told to do this gradually. Was also told not to be surprised if knee was sore and/or painful. Pt notes that after sitting for a while, he has a little trouble with weight-bearing. Finished P.T. Friday--dc.

Personal history

Work: Work history Employed by COMFD.

Physical findings

Vital signs:

- SBP 140/76 mmHg.

On exam patient has pain with valgus stress and pain medially to palpation, no laxity of the knee.

Plan

Michael C. Turner, DO ordered

- An MRI of any joint of the lower extremity

Patient still having pain medially with some clicking as he goes from a sitting to a standing position. Obtain a MRI and follow up with results.

Eddie Haynes 6340

9/24/2007

1 11/30/2004 11:19:00 AM

Eddie Haynes, Gender: M, DOB: 8/17/1970, Encounter Date and Time: 11/30/2004 11:19AM, Examiner: Michael C. Turner, DO

Chief complaint

The Chief Complaint is: F/up (L) knee injury.

History of present illness

Eddie Haynes is a 34 year old male.

- Knee joint pain which is improving.

Pt here for f/up of (L) knee knjury. Also here to get MRI results- --dc.

Physical findings

Patient still has pain at medial joint line. MRI shows degeneration and questionable tear of medial meniscus. A cyst is also noted on the MRI.

Plan

Patient is scheduled for further evaluation with ortho at this time. Continue with light duty.

1 3/24/2005 1:38:00 PM

Eddie Haynes, Gender: M, DOB: 8/17/1970, Encounter Date and Time: 3/24/2005 01:38PM, Examiner: Michael C. Turner, DO

Chief complaint

The Chief Complaint is: Fit for duty.

Past medical/surgical history

Reported History:

Reported medications: Taking medication Ibuprofen; Gabitril; Valium; Lexapro; Demerol; Darvocet N 100; Benadryl prn allergies; Skelaxin.

Pt states that these Rx's are prescribed by Drs. Wells, Palmer and Teresa Brown....

Subjective

Pt here for Fit for Duty exam. Pt states that his (L) knee bothers him off and on.

Pt presently on multiple medications. Does not want to reveal reasons at this time for all of his medications. States he wants this left confidential between he and his other doctors....dc.

Physical findings

Vital signs:

Vital Signs/Measurements	Value
PR	96 bpm
Blood pressure	120/78 mmHg
Weight	201 lbs

Plan

Patient was instructed to have medical records whith but he does not so we will reschedule him when we have received his release of records.

1 3/31/2005 1:35:00 PM

Eddie Haynes, Gender: M, DOB: 8/17/1970, Encounter Date and Time: 3/31/2005 01:35PM, Examiner: Michael C. Turner, DO

Chief complaint

The Chief Complaint is: Fit for duty

History of present illness

Eddie Haynes is a 34 year old male.

Pt states he is here to have his medication checked for his job. He was here the other day and that we were to find out about some records concerning his medications

Past medical/surgical history**Reported History:**

Reported medications: Medication history: Lexapro, Gabitril, Ibuprofen, Skelaxin, Valium, DCN, Benedryl pm, Hydrocodone.

Medical: Reported medical history: L. knee injury/pain, R. foot injury, anxiety.

Personal history

Work: Work history Pt is employed by COMFD x 15 yrs.

Physical findings**Vital signs:**

Vital Signs/Measurements	Value
Blood pressure	142/92 mmHg
Weight	198 lbs

Lungs:

° Respiration rhythm and depth was normal. ° Clear to auscultation.

Cardiovascular system:

Heart Rate And Rhythm: ° Normal.

Murmurs: ° No murmurs were heard.

Abdomen:

Auscultation: ° Abdominal auscultation revealed no abnormalities.

Reviewed letters and medications from treating physicians. Patient has no physical limitations. He states he does not take his medications while on duty.

Allergies

Cipro. Reaction(s): Itching, Rash. Identified: Unknown.

Plan

Patient is physically fit to return to duty. The concerns come from the medications he is taking for his anxiety and joint pains. He is prescribed the Valium 5mg bid and Gabitril qd. The patient states he does not take any medications but the Lexapro while on duty. This logic made no sense to me that you would need to take the medicine on your days off while not under stress but not need it when in the most stressful situations. These medications effects could carry over to his on duty time. Any drug screen performed would most likely be positive even when on duty.

There are safety issues for him driving a truck and working on the fire line while under the influence of these medications though he claims he does not take while on duty. The only way to prove it would see him taking the medication while on duty. Administrative decision is needed.

1 4/12/2005 9:10:00 AM

Eddie Haynes, Gender: M, DOB: 8/17/1970, Encounter Date and Time: 4/12/2005 09:10AM, Examiner: Michael C. Turner, DO

Chief complaint

The Chief Complaint is: F/up (L) knee injury

History of present illness

Eddie Haynes is a 34 year old male.

- Knee joint pain which is failing to change as expected

Pt here for f/up of (L) knee injury that happened 09/13/04. States his knee is always stiff. Has good days and bad days. States he does not have pain of this extremity on a daily basis; may be pain-free x one week, then may have pain for one week.....dc

Personal history

Work: Work history Employed by COMFD x 15 years

Physical findings

Patient has stiffness when he wakes and after exercise. Pain medially to palpation. Reviewed Dr. Wells notes and previous MRI

Plan

Patient has been on Motrin and had some GI upset. I am going to put him on Celebrex and reschedule to see Dr. Wells

ENCOUNTER SUMMARY**Patient Name:** Haynes, Eddie J.**Date:** 04/12/2005**Chart No:****Doctor of Record:** Multiple Exist**Phone:** (334) 272-0317**Examiner:** Michael Turner**Age:** 37 yrs**Chief Complaint:** ? on blue form**General Notes:** Pt states that the Dr. put him back to work full duty but states he has another case still pending, please call @ 657-1853-ldh

Pt called back to advise that MD released him to rtw full duty for his knee only, the other case is still pending the COM and is a seperate issue. Pt verbalized understanding-ldh

Current Problems:

Description	Identified	Status	Category	Condition
Knee Sprain	09/14/2004		diagnostic	
Joint Pain, Localized In The Knee	11/09/2004		diagnostic	

1 Note 5/25/2006 9:05:00 AM

Eddie Haynes, Gender: M, DOB: 8/17/1970, Encounter Date and Time: 5/25/2006 09:05AM, Examiner: Michael C. Turner, DO

Chief complaint

The Chief Complaint is: Fit for duty.

Past medical/surgical history

Reported History:

No past medical history reported.

Reported medications: No recent immunization for tetanus.

Physical trauma: Physical trauma Pt states that he is here for a fit for duty to go back to the fire department. -kb. Shoulder surgery in 2000.

Personal history

Work: Work history Pt employed with COM.

Physical findings

Vital signs:

Vital Signs Measurements	Value
Blood pressure	140/98 mmHg
Weight	213 lbs

Assessment

Fit for Duty.

Allergies

No allergies.

Plan

Nothing has essentially changed since his last evaluation. He does deny taking the Lortab anymore. He is still physically fit for duty. He is still taking Lexapro, Flexeril, Valium 5mg bid, and Gabitril. He does not take them while at work. The medications could effect his performance while on duty which involves driving a fire truck and working on the fire line. Why he would not need or take these medications for anxiety while on duty I do not understand. There must be an administrative decision with this case.

69022
495
540

Southeastern Industrial & Family Medicine Associates

AUTHORIZATION FOR USE AND DISCLOSURE OF PROTECTED HEALTH INFORMATION

Patient Identification:
Printed Name: Eddie Dupont Date of Birth: 8-17-70
Address: 4501 Middle Fork Rd. Montgomery AL 36106
Social Security: 444-28-1040 Home Phone: 272-0317 Cell: _____

Information To Be Released - Covering the Periods of Health Care:

From (date) _____ to (date) _____
From (date) _____ to (date) _____

Please check type of information to be released:

<input checked="" type="checkbox"/> Entire Medical Record	<input type="checkbox"/> Pathology Reports	<input type="checkbox"/> Hospital Records	<input checked="" type="checkbox"/> X-Ray Reports
<input type="checkbox"/> History & Physical Exams	<input checked="" type="checkbox"/> Consultation Reports	<input type="checkbox"/> Progress Notes	<input type="checkbox"/> X-Ray Films
<input checked="" type="checkbox"/> Lab Test Results Reports	<input checked="" type="checkbox"/> Office Visit Notes	<input checked="" type="checkbox"/> Operative Reports	<input type="checkbox"/> ER Records
<input checked="" type="checkbox"/> Medications	<input type="checkbox"/> Other (specify): _____		

Purpose of Request:

<input checked="" type="checkbox"/> Treatment	<input type="checkbox"/> Consultation	<input type="checkbox"/> Patient Requested	<input type="checkbox"/> Billing or Claims Payment
---	---------------------------------------	--	--

Person or Facility Authorized to Receive Information:

Southeastern Industrial & Family Medicine Associates, LLC
1600 Forest Avenue
Montgomery, Alabama 36106
Telephone: (334)261-4445 Fax: (334)261-4448

mail to

160 Forest Ave.
Montg. AL.
36106
FILE

Drug and/or Alcohol Abuse, and/or Psychiatric and/or HIV/AIDS Records Release:

I understand that if my medical or billing record contains information in reference to drug and/or alcohol abuse, psychiatric care, sexually transmitted disease, hepatitis B or C testing, and/or other sensitive information, I AGREE to its release as part of the requested information.

Check One: ☐ YES ☐ NO Initials _____

I understand that if my medical or billing record contains information in reference to HIV/AIDS (Human Immunodeficiency Virus Acquired Immune Deficiency Syndrome) testing and/or treatment, I AGREE to its release as part of the requested information.

Check One: ☐ YES ☐ NO Initials _____

Time Limit & Right to Revoke Authorization:

Except to the extent that action has already been taken in reliance on this authorization, at any time I can revoke this authorization by Submitting a notice in writing to the facility Privacy Officer. This authorization is effective for _____ months after date signed.

Signature of Patient or Personal Representative Who May Request Disclosure:

I understand that _____ may not condition my treatment, or whether I sign this authorization form unless specified above under Purpose of Request, I can inspect or copy the protected health information (PHI) to be used or disclosed. I authorize Southeastern Industrial & Family Medicine to use and disclose the PHI specified above.

Signature: [Signature] Date: 3-24-05
Authority to sign if not patient: _____

Re-disclosure:

I understand the information disclosed by this authorization may be subject to re-disclosure by the recipient and will no longer be protected by HIPAA. The facility, its employees, officers and physicians are hereby released from any legal responsibility or liability for disclosure to the extent indicated above.

Smart
4/12/06

Haynes, Eddie
69022 12-03-04
T. Wells cont.

HAYNES, EDDIE J.

69022

12-03-04

DR. WELLS

C

Eddie Haynes is seen back in the office today on 12-03-04. His problem now is an on-the-job injury on 09-13-04 when he twisted his knee while getting into an automobile. He has seen Dr. Turner who sent him to rehab. He has noted a click in his knee, this is not painful. Over the last week or so he relates that he is much improved and this could be because of the Indocin that we placed him on for his plantar fasciitis, most likely is.

MRI: A MRI has been performed and shows a questionable tear of the body of the meniscus.

PHYSICAL EXAM: On exam he has no effusion. He has only minimal tenderness along the medial joint line. This is not at all marked, just a tiny bit. He has only minimal discomfort on McMurray's testing. He has no laxity on varus or valgus stress and no pain on varus or valgus stress. He has no pain in the popliteal fossa. He has a negative Lachman's test and a negative patellofemoral inhibition test.

X-RAYS: X-rays are made in the office today, AP, lateral, and obliques, plus a sunrise. These are considered normal for age 34.

PLAN: We do not think Mr. Haynes medial meniscus pathology is symptomatic enough to warrant surgical intervention nor does he. This may be an over read by Dr. Delbert Juan. We are having him continue on his Indocin. We want him to use ice massage to his knee and to now resume his normal activity at work though he may restrict his activity somewhat off the job. We will see him back in the office in 6 weeks only if needed. We think he will be able to call and cancel the appointment. At this point we anticipate no significant permanent impairment and we think he will have reached maximum medical improvement with the completion of his Indocin. We would like for him to take this a total of 3 weeks.

TGW:rg 12-06-04

CC: Dr. Michael Turner - Thank You

1-4-05 T. Wells @ OK. TW.

1-14-05 T. Wells @

3-29-05 T. Wells (P.S. scheduled).

4-4-05 T. Wells @ plantar fasciitis

90

69022 11-23-04

T. Wells cont.

HAYNES, EDDIE J.

69022

11-23-04

DR. WELLS

C

Eddie Haynes is seen back in the office today on 11-23-04. He is continuing to have pain at the plantar fascia attachment onto the os calci's.

PHYSICAL EXAM: He is tender to palpation in this area and desires to have an injection.

PLAN: We have treated him in a vigorous fashion in the past for plantar fasciitis on the left and then had to inject. We are going to be a little more aggressive and inject him today with 40 mg of Depo-Medrol. However, we want him to continue with all of his other modalities to include ice, heat, never going barefooted, physical therapy, and Motrin 600 mg, 1, 3 times a day. We will see him back in the office in 6 weeks.

TGW:rg 11-24-04

GA

11-24-04 T. Wells

HAYNES, EDDIE

69022

11-24-04

DR. WELLS

C

Eddie Haynes is seen back in the office today on 11-24-04. His pain has been significant since our injection. We wanted to just bring him back in and look at his heel.

PHYSICAL EXAM: It is not engorged and not erythematous, it is just painful and throbs when he puts his foot down. I do not think we have an excessive bleed and I do not think we have an infection.

PLAN: He was taking Lortab. We are going to place him on Demerol 50 mg tabs, 1 to 2 every 3 to 4 hours and Darvocet for mild pain. We are also placing him on Indocin, which he has taken previously, 1, 3 times a day. If he has any problems such as headache, blurred vision, indigestion, or diarrhea then he will stop the medication. He has returned to work today, light duty. We are going to send him home to elevation and to ice. We will see him back at his regular appointment unless he has some problems for which he will come back haste post haste.

TGW:rg 11-29-04

GA

12-3-04 T. Wells @ Dr. King on the job - Sept 13th E. Turner
getting into auto H. Turner - Rehab
Click not painful.



Orthopaedic Surgery

Thomas G. Wells, M.D.
D.D. Thornbury, M.D.
G. Robert Burton, III, M.D.

Hand Surgery and Orthopaedic Surgery

Edward E. Palmer, Jr., M.D.

Spine Surgery and Orthopaedic Surgery

Timothy A. Holt, M.D.

J.J. O'Callaghan
Business Manager

March 6, 1997

Kirven Ulmer, M.D.
1801 Pine Street, Suite 101
Montgomery, AL 36106

RE: Eddie J. Haynes
CHART #: 69022

Dear Kirven:

Thank you for referring Eddie Haynes to us. He is a 26 year old fellow who has been having heel pain for approximately eight weeks duration. He sustained an injury on-the-job jumping directly onto this. He is painful at the attachment of the plantar fascia onto the os calcis and on the medial aspect of his heel. He does have pes planus.

You have treated him in the usual fashion consisting of physical therapy and anti-inflammatory medications. They have provided him with an insert. He has been on Naprosyn. We are going to increase this to Indocin 25 mg one, three times a day. Hopefully, he can take this. Drug precautions which are headache, blurred vision, indigestion and diarrhea are given.

We are continuing with the physical therapy. We want him to use warm soaks first thing in the morning and again at night. We are continuing with the physical therapy, ultra sound and taping. We want him to decrease his activity. He is a fireman and has been continuing to work. We are going to restrict his activity with no climbing and no running. We do not want to inject. We are not thinking in terms of surgical intervention.

Sincerely,


Thomas G. Wells, M.D.

TGW:cbp T:3/10/97

Haynes, Eddie J.
69022 4-4-05
TWells

HAYNES, EDDIE J.

69022

04-04-05

DR. WELLS

C

Eddie Haynes is seen back in the office today on 04-04-05. This is a 34-year-old male who is again having pain in the right plantar fascia as it attaches onto the os calci's. He relates that this has been present for about 2 weeks.

SOCIAL HISTORY: He is a firefighter for the Montgomery Fire Department.

CURRENT MEDICATION: Medication is as listed.

PLAN: We have treated him in the past with an injection, which was quite painful. We are holding off therefore on the injection. We are placing him on Indocin, which he has taken without consequence; this is 25 mg, 1, 3 times a day. We want him to use warm soaks in the morning and ice massage at night. We are sending him to physical therapy. Our protocol for plantar fasciitis is given. We will see him back in the office in 3 weeks.

TGW:rg 04-05-05

•

6-13-97 T. Wells - no show
OK

5-04 T. Wells @ heel pain. jumped off truck 2 months

HAYNES, EDDIE J.

69022

11-05-04

DR. WELLS

C

Eddie Haynes is seen back in the office today on 11-05-04. He is again having pain. It is his right heel, not his left one. We have treated him in the distant past, 1997, for left heel pain. He relates that about 2 months ago he jumped off the back of a truck and following this he began having pain in his heel and this has persisted. He has seen a podiatrist who has injected his heel and this did not help. He has pain first thing in the morning.

PHYSICAL EXAM: He is tender over the medial aspect of the sole of his heel at the attachment of the plantar fascia onto the os calci's.

X-RAYS: X-rays are made and we do not see a fracture of the os calci's and we do not see a spur.

IMPRESSION: Plantar fasciitis. *Right*

PLAN: We have treated him in a vigorous fashion previously and then finally injected him. We do not want to inject today though he did get significant benefit previously. We are going to try our conservative, non-operative treatment first. He has no history of peptic ulcer disease, hiatal hernia, or reflux. Consequently, we are going to place him on Motrin 600 mg, 1, 3 times a day. We want him to use warm soaks first thing in the morning. He is to never go barefooted. He is to use ice massage at night and we are sending him to physical therapy. We will see him back in the office in 3 weeks and if not improved we will consider an injection at that point, hopefully this will not be the case. If he is doing great he will call and cancel the appointment.

TGW:rg 11-08-04

23-04 T. Wells

24-04 T. Wells Kees misaka.

Haynes, Eddie
69022
Dr. Wells

4-8-97 Haynes, Eddie 69022 Dr. Wells

Seen back in the office today. Bone scan does not show a fracture. I believe we're dealing with persistent plantar fasciitis. We've injected today with .25 cc. of Xylocaine, .5 cc. of Celestone. I want him to use ice over the next 3 days. We want him to continue in therapy. We'll see him back in the office in 3 weeks. If he fails to respond, then I think we need to think in terms of surgical intervention. Hopefully, this will not be the case. He has not had custom fabricated longitudinal arch supports. This may be in order before surgical intervention. He's markedly flat footed.

TGW:al T: 4-11-97

Dr. Wells,

4-29-97 Haynes, Eddie 69022 Dr. Wells

Seen back in the office today, relating that the injection was of great value for several weeks, however, the pain is again coming back. He is tender over the plantar fascia attachment to the Os Calcis. Eddie may come to eventual surgical intervention, however, one last conservative approach will be custom fabricated longitudinal arch supports with a plastizote cutaway for his plantar fascia attachment onto the Os Calcis. This will be done by Mrs. Donna Robertson in Hoover, AL.

We'll see him back in the office in 3 weeks. He's been off all anti-inflammatory agents for a week. He was on Indocin. We're now placing him on Ibuprofen, 400 mg. 2 at breakfast, 2 at lunch and 2 at supper. He is still going to physical therapy.

He will continue his light duty status for another month. However, if he continues to be painful, I think we need to go ahead and operate so that he can return to his normal activity.

We'll see what our arch supports do. On return in 3 weeks, if he is still having problems, we'll place him on the surgery schedule.

TGW:al T: 5-1-97

5/20/97 HAYNES, EDDIE 69022 Dr. Wells

Seen back in the office today. He just got his inserts. He is no longer going to physical therapy. He really didn't realize that he should. He states that he's still having some discomfort but it's much improved. He'd sort of like to have an injection again. We certainly don't want to do that. We want him to follow all the protocol that has been established for him. We're going to continue with the restricted activity for 2 weeks then back to his regular job in 2 weeks. We'll see him back in the office in 6 weeks.

TGW:chh T: 5/22/97

Haynes, Eddie
69022
6-97TWells

Monty June Dept
Seen at Ulmer on several occasions
- P.T.
- Ultrason - naproxen

3/6/97 HAYNES, EDDIE JAMES 69022 Dr. Wells
Seen in the office today. Letter to Dr. Ulmer. MU
TW:cbp T:3/10/97 J-12

-24-97 Danvent N 100g - dis 33- $\frac{1}{2}$ - $\frac{1}{2}$ P o g 3-4
h prw pain called to Adams - 264-3496 - Dr
Dr. P's orders - Dr

6-97TWells
Bone Scan (feet) Thurs Apr 30 11³⁰ AM
-2-97 Bone Scan approved by Shilma BFB

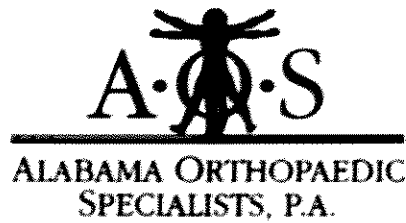
4-1-97 Haynes, Eddie 69022 Dr. Wells

Seen back in the office today. No real improvement except for his pain in the morning, first thing, is not in excess. He is tender at the attachment of the plantar fascia onto the Os Calcis, rather exquisitely so. He has marked pes planus and some pronation. This fellow may come to surgical intervention. He jumped down on this approximately 8 weeks ago. He does not have a heel spur. He has no evidence on our plain films that he has a fracture.

We're going to get a bone scan, limited, of the lower extremity. We'll see him back in the office as soon as this is done. I will inject him and fabricate a custom longitudinal arch support before we consider surgery. He is not being taped today because he said it was just too tight. It doesn't matter whether it's tight or loose, it still does not substantially change his pain.

TGW:al T: 4-3-97

327



THOMAS G. WELLS, M.D.
Orthopaedic Surgery and Arthroscopic Surgery
D.D. THORNBURY, M.D.
Foot & Ankle and Orthopaedic Surgery
EDWARD E. PALMER, JR., M.D.
Hand Surgery and Orthopaedic Surgery
STEVEN A. BARRINGTON, M.D.
Joint Replacement and Orthopaedic Surgery

CHARLES W. HARTZOG, JR., M.D.
Sports Medicine and Arthroscopic Surgery
G. DEXTER WALCOTT, JR., M.D.
Sports Medicine and Arthroscopic Surgery
MICHAEL E. DAVIS, M.D.
Spine Surgery and Orthopaedic Surgery
RONALD P. O'NEAL, MPH, CHE
Administrator
W. SCOTT GULLEY, CPA
Controller

December 03, 2004

Michael C. Turner, D.O.
Southeastern Industrial & Family Medicine Associates, LLC
1600 Forest Avenue
Montgomery, AL 36106

Re: Eddie J. Haynes
Chart #: 69022

W/c

Dear Dr. Turner:

Thank you for kindly referring Eddie J. Haynes to me for evaluation. Enclosed is a copy of today's office notes with my evaluation and recommendation.

I appreciate you allowing me to participate in this patient's care. If you have any questions or if I can be of any further assistance to you, please do not hesitate to contact my office.

Sincerely,


Thomas G. Wells, M.D.

TGW:rg

Enclosure



HAYNES, EDDIE J.

69022

12-03-04

DR. WELLS

C

Eddie Haynes is seen back in the office today on 12-03-04. His problem now is an on-the-job injury on 09-13-04 when he twisted his knee while getting into an automobile. He has seen Dr. Turner who sent him to rehab. He has noted a click in his knee, this is not painful. Over the last week or so he relates that he is much improved and this could be because of the Indocin that we placed him on for his plantar fasciitis, most likely is.

MRI: A MRI has been performed and shows a questionable tear of the body of the meniscus.

PHYSICAL EXAM: On exam he has no effusion. He has only minimal tenderness along the medial joint line. This is not at all marked, just a tiny bit. He has only minimal discomfort on McMurray's testing. He has no laxity on varus or valgus stress and no pain on varus or valgus stress. He has no pain in the popliteal fossa. He has a negative Lachman's test and a negative patellofemoral inhibition test.

X-RAYS: X-rays are made in the office today, AP, lateral, and obliques, plus a sunrise. These are considered normal for age 34.

PLAN: We do not think Mr. Haynes medial meniscus pathology is symptomatic enough to warrant surgical intervention nor does he. This may be an over read by Dr. Delbert Juan. We are having him continue on his Indocin. We want him to use ice massage to his knee and to now resume his normal activity at work though he may restrict his activity somewhat off the job. We will see him back in the office in 6 weeks only if needed. We think he will be able to call and cancel the appointment. At this point we anticipate no significant permanent impairment and we think he will have reached maximum medical improvement with the completion of his Indocin. We would like for him to take this a total of 3 weeks.

TGW:rg 12-06-04

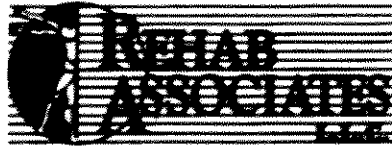
CC: Dr. Michael Turner – Thank You

•



script 11/09/04[Page 1 of 1]

9095

Name: *Eddie Agnes*Diagnosis: *knee pain*

Next Dr. Appt. Date/Time:

☒ Consult: Evaluate & Treat
*gd X 1 wk**11/09/04 @ 1:30***Specialty Services:**

- ☐ Lymphedema Management**
- ☐ FCE
- ☐ FCE with Impairment Measurements
- ☐ Work Rehabilitation
- ☐ Hand Therapy*
- ☐ Women's Health Services**

Procedures/Modalities:

- ☐ Aquatic Therapy
- ☐ Back School
- ☐ Orthotics

Helpful Hints:

- Bring your physician referral on your first visit.
- Wear loose fitting shorts and tee shirts each visit.
- Expect each visit to last from 1 1/2 to 2 hours.
- Insurance Counseling available

If you cannot attend a scheduled appointment, simply call ahead and we will be happy to reschedule

10 Convenient Locations

(see map on back)

1801 Pine Street, Suite 102
Montgomery, AL 36106
334-262-6161 / Fax 334-434-1706
Behind Jackson Hospital

464 St. Luke Drive**
Montgomery, AL 36117
334-244-6889 / Fax 334-244-6867
Across from Baptist M.C. East

100 Hummingbird Woods Drive
Montgomery, AL 36102
334-614-6088 / Fax 334-614-4434
Behind Dunbar's Plaza

1725 Pine Street - Jackson Hospital
Montgomery, AL 36106
334-293-6156 / Fax 334-293-6221
Therapy Annex

1824 Glynnwood Drive
Prichard, AL 36068
334-261-4711 / Fax 334-261-4219
Glynnwood Business Park

100 Adams Street
Greenville, AL 36027
334-282-6288 / Fax 334-282-6484
Old Alabama Power Building

Industrial Rehab
1801 Pine Street, Suite 202
Montgomery, AL 36106
334-262-6029 / Fax 334-262-1006
Behind Jackson Hospital

Hand & Specialty Clinic*
4124 Carmichael Court
Montgomery, AL 36106
334-264-4888 / Fax 334-264-4776
Turn on Carmichael Ct.
across from Cx. Center

1118-41 U.S. Hwy 321
Trng. AL 36087
334-686-6021 / Fax 334-686-0428
Beside Taco Bell

2158 Normandy Drive
Montgomery, AL 36111
334-265-5677 / Fax 334-265-4644
Behind Baptist M.C. South

I certify that therapy services for the above named patient are required, medically necessary and authorized by me.

Physician's Signature

M.D.

Date

11/09/04

prog note 11/15/04[Page 1 of 1]



9381

PROGRESS REPORT

PATIENT: Eddie Haynes PHYSICIAN: Turner
 DIAGNOSIS: (L) knee sprain DATE: 11/15/04

ESTABLISHED GOALS INCLUDED:

- ☒ Increase range of motion
- ☒ Increase strength
- ☐ Increase general fitness/endurance
- ☒ Decrease swelling/pain
- ☐ Increase/Decrease joint mobility
- ☐ Correct Biomechanical Dysfunction
- ☒ Improve Functional Capacity in:
 - ☐ Weight Bearing
 - ☐ Work Activities
 - ☐ Sport Activities
 - ☒ ADL
- ☒ Education
- ☐ Other

RESULTS OF TREATMENT

Comments:

pt. cont. to progress in PT. Able to do additional strengthening ex. I do discomfort. Still do tenderness over med aspect of (L) knee but this is sign of strength. SIS knee L but still reports occasional pain in elliptical ex.

Recommendations:

Cont. QDD ex with hr cont. strengthening and ex progression advancing exercise program and elliptical trainer to stimulate running.

Therapist: Randy - DPT/ATC

PHYSICAL THERAPY REFERRAL FORM

I have read the above progress report and would request that my patient:

- ☐ Continue with present treatment/rehabilitation.
- ☐ Have an isokinetic evaluation.
- ☐ Have a Functional Capacity Evaluation.
- ☐ Please call me concerning this patient.
- ☐ Be discharged from Physical Therapy.
- ☒ Continue with present treatment program and make the following revisions:

good X 1 with

Physician

Date

White - Rehab Associates Copy

Canary - Physician Copy

Pink - Rehab Associates Copy



Date: 11/23/04
Patient: Haynes, Eddie
DOB: 08/17/70
Physician: M. Turner
Tech: Chung Nguyen, RDMS RT (R) (MR)
Chart #: S112304-1
Tape:
Indication: Knee pain.

SCAN: MRI of the left knee.

TECHNIQUE: Multiplanar, multipulse MRI of the left knee was completed in the usual manner without difficulty.

FINDINGS: The patient has no evidence of significant meniscus tear. There is a small degenerative signal in the periphery of the body of the medial meniscus. In addition, the patient has a proximal tibial metaphyseal cyst or enchondroma centrally. Cruciate ligaments, collateral ligaments are intact.

Likewise, the extensor tendons have a normal appearance.

IMPRESSION: MRI of the left knee does not show any evidence of significant meniscus or cruciate ligament tear. Degenerative signal Grade II is present in the periphery of the meniscus and there may be a small peripheral tear in the body of the medial meniscus. 2 cm multiloculated cyst centrally in the proximal tibial metaphysis.

Thank you for this patient referral.


Delbert Hahn, M.D.

DH/apd
D: 11/23/04
T: 11/23/04

7094 University Court • Montgomery, AL 36117

(334) 271-OPEN (6135) • Office: (334) 271-1345 • Fax (334) 271-1342

www.imimontgomery.com

A Division of IMI Health & Wellness, Inc.

IMI Health & Wellness, Inc. • 11/23/04 • 11/23/04



script 11/23/04[Page 1 of 1]

**271-OPEN** (6736)

Toll Free: 1-866-271-9944

7094 University Court
Montgomery, AL 36117
Ph: (334) 271-1345
Fax: (334) 271-1342

74240 Tallapoosa Highway
Wetumpka, AL 36075
Ph: (334) 567-8383
Fax: (334) 567-1880

High Field MRI, Open MRI, 5
Ultrasound, 3D Ultrasound,
24-hour Holter, Event Monitoring,
Cat Scan and X-Ray



Accredited by the American
College of Radiology

TO BE SIGNED BY PHYSICIAN ONLY.

INTEGRATED MAGNETIC IMAGING • (334) 271-1345 or 1-866-271-9944

Patient Name: Eddie Haynes

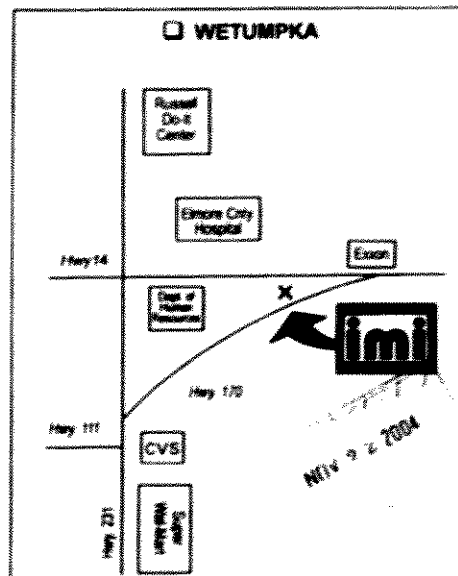
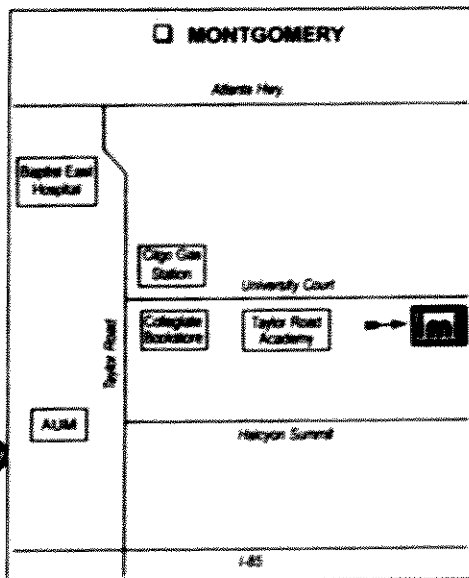
Exam Type: MRI Lt Knee Diagnosis: Knee sprain

☐ With & Without IV Contrast ☐ Without IV Contrast

☐ Oral CT Contrast Date: 11-23-04 Time: 7:15 AM / PM

Physician Signature: [Signature]

Please be aware that a 24 hour notice is required for cancellations, to avoid being charged for missed appointments.

WE HAPPILY ACCEPT STAT PATIENTS UPON REQUEST

Mar 28 05 05:35p

RISK MANAGEMENT

3342414410

P. 1

BSA

5439

MKS

TO: M.F. Smith, District Chief

From: E.J. Haynes, Firefighter

Date: March 4, 2005

RE: Engine 14 Driver

Dear Sir,

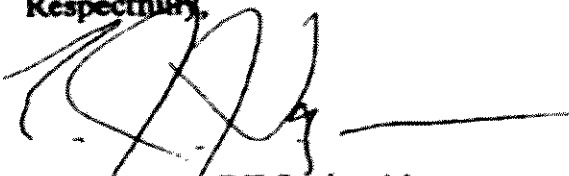
It is a pleasure as well as an honor to be chosen Driver of Engine 14. I am more than willing if the City of Montgomery needs me to do so. However, if there is someone else is more willing or highly qualified to drive Engine 14, I will assist them as needed to be ready to take any assignment. I have been driving the Fire Truck off and on for the last fourteen years and I am currently the driver.

Being a Driver for Engine 14 I know I must inform you of my medications. The medications include Ibuprofen 600 mg. daily, Lexapro 10 mg. daily, and Gabitril 4 mg. PRN(two -three times a week).

Medications that I take on my off days and on a as needed basis are Hydrocodone 5/500, Diazepam 5 mg., Cyclobenzaprine 10., Skelaxin 800., Meperidine 50., and over the counter Benadryl for my sinus problem.

Again, thank you for your consideration for me being Engine 14 Driver. It is an honor to be a Montgomery Firefighter and take on the duties of a dedicated Fireman.

Respectfully,



E. J. Haynes, F/F Station 14

 **Palmer Psychiatric Services, PC**
Clemmie Palmer III, M.D.

3090 Woodley Road, Suite A
Montgomery, Alabama 36116
doctor.medscape.com/CPalmerMD

Phone: (334) 280-3230
Fax: (334) 280-3272
Email: CPalm94@aol.com

April 14, 2005

RE: Eddie Haynes
DOB 08/17/1970

To Whom It May Concern:

Mr. Eddie Haynes is able to work without taking Valium or Gabitril. Mr. Haynes can perform his duties in his current capacity with no restrictions. If you have concerns do not hesitate to call or write.

Cordially,



CP/nb



PSYCHEMEDICS CORPORATION

543

PSYCHEMEDICS CORPORATION TEST CERTIFICATE AND CONTROL FORM - INITIAL TESTING

HPLC Code: 00000000

F818760

CIT002

HPLC Type:

REF ID:

Client Code:

STEP 1: Completed by Collector. Have donor sign page 2.**A. Sample Collected For:**

City of Montgomery - Fire Department - #10021

Dr. Michael Turner

Southeastern Industrial and Family Medicine Associates, Inc. - Montgomery - Fire Department

3600 Forest Ave.

Montgomery, AL 36106

V: (205) 251-4441 F: (205) 251-4441

JEFF LUTHER

300 N. Perry Street - City Hall

Montgomery, AL 36101

B. Donor SSN or Employee ID #

424-23-1040

18 CHARACTERS MAXIMUM - Must Match Donor ID on Sample Acquisition Card (SAC)

C. Reason for Test ☐ Pre-Employment ☐ Random ☐ Reasonable Suspicion/Cause ☒ Return to duty ☐ Other

Please specify

D. Donor ID Verified☒ Photo ID☐ Employer Representative

Signature of Employer Representative

E. Drug Tests to be Performed:☒ Cocaine, Opiates, PCP, Amphetamines, Marijuana☐ Other (Specify)**F. COLLECTION SITE INFORMATION:**

STF 11114

COLLECTION FACILITY

1600 Forest Ave

ADDRESS / CITY / STATE / ZIP CODE

11114 Ave 36104

BUSINESS PHONE NUMBER (REQUIRED):

BUSINESS FAX NUMBER:

STEP 2: Collector copies Subject ID from CCF to SAC; Collector completes information on Integrity Seal and SAC EXCEPT Donor's Initials; Collector obtains sample from donor and places sample in SAC in accordance with procedures.Source of Sample: Hair from ☐ Head ☐ Chest ☒ Underarm/s ☐ Leg/s ☐ Other

Must specify approval code

Collector affixes signed Integrity Seal to SAC; Collector removes Bar Code from CCF and affixes it to SAC.

STEP 3: Donor initials SAC; Donor completes STEP 3A on Page 2 - Donor Certification.**STEP 4:** Chain of Custody - Initiated by Collector and Completed by Laboratory.**Collector Remarks:**

I, the collector, certify that the enclosed sample was obtained with the consent of the donor, that proper identification of the donor was made, and that the appropriate authorization was obtained from the donor for disclosure of the results to the above named result recipient.

Print Collector Name

Signature of Collector

Date (example Jan/01/2005)

DHL
Sample Released To:
Name of delivery service
transferring sample to lab.

Collector places Page 1 of the CCF (this page) and the SAC (initialed by the Donor) in the pouch and seals it. Donor initials and dates the seal on the pouch.

STEP 3A: COMPLETED BY DONOR**Donor Certification:**

I certify that I am the test subject, that the sample contained in the envelope is my sample, that it was not close to the skin, and I witnessed the sample collector seal the sample in the envelope. I consent to the testing of the sample by Psychomedics Corporation and to the release of the results to the named test result recipient. I hereby release Psychomedics Corporation, its officers, employees, agents and representatives from any and all liabilities arising from the reporting of my results to the authorized recipient and the recipient's use thereof.

Donor Signature

Eddie J. Haynes

334 284 7919

334 222 0317

8/17/70

Daytime Phone

Evening Phone

Date of Birth

NON D.O.T. CUSTODY AND CONTROL FORM

(Do Not Use This Form For D.O.T. Collections)

LABORATORY

1704 Alexander Drive

RTF

NC 27709

919-571-6900

SPECIMEN ID NO. 0630632903

LAB ACCESSION NO.

STEP 1: COMPLETED BY COLLECTOR OR EMPLOYER REPRESENTATIVE

A. Employer Name, Address and I.D. No.

City of Montgomery AT 106021
 61 N Perry Street, Suite 111
 Montgomery AL 36101
 204-241-2517 AIB

B. MRO Name, Address, Phone and Fax No.

KENNETH L. TURNER, D.O.
 SOUTHCLAYTON INF & FAMILY HSE
 1600 FOREST AVE
 MONTGOMERY AL 36106
 PH. 334-261-4441 FAX 334-261-4448

C. Donor SSN or Employee I.D. No.

D. Reason for Test:

☐ Pre-employment ☐ Random ☐ Reasonable Suspicion/Cause ☐ Post Accident
☒ Return to Duty ☐ Follow-up ☐ Other (specify) _____

E. Drug Tests to be Performed:

F. Collection Site Address:

517114
 1600 Forest Ave
 Montgomery AL 36106

Collector Phone No.

334-41-4445

Collector Fax No.

334-41-4448

STEP 2: COMPLETED BY COLLECTOR

Read specimen temperature within 4 minutes. Is temperature between 90° and 100°F? ☒ Yes ☐ No, Enter Remark _____

Specimen Collection:

☒ Split ☐ Single ☐ None Provided (Enter Remark) _____ ☐ Observed (Enter Remark) _____

REMARKS:

STEP 3: Collector affixes bottle seal(s) to bottle(s). Collector dates seal(s). Donor initials seal(s). Donor completes STEP 5 on Copy 2 (MRO Copy)

STEP 4: CHAIN OF CUSTODY - INITIATED BY COLLECTOR AND COMPLETED BY LABORATORY

I certify that the specimen given to me by the donor identified in the certification section on Copy 2 of this form was collected, labeled, sealed, and released to the Delivery Service noted in accordance with applicable requirements.

[Signature]
 Signature of Collector

3:45 AM

Time of Collection

(PRINT) Collector's Name (First, MI, Last)

03/31/05

Date (Mo/Day/Yr)

SPECIMEN BOTTLE(S) RELEASED TO:

[Signature]
 Name of Delivery Service Transferring Specimen to Lab

RECEIVED AT LAB:

☒ _____
 Signature of Accessioner

(PRINT) Accessioner's Name (First, MI, Last)

1/1/

Date (Mo/Day/Yr)

Primary Specimen Bottle Seal Intact

☐ Yes
☒ No, Enter Remark Below _____

SPECIMEN BOTTLE(S) RELEASED TO:

STEP 5: COMPLETED BY DONOR

I certify that I provided my urine specimen to the collector; that I have not adulterated it in any manner; each specimen bottle used was sealed with a tamper-evident seal in my presence; and that the information provided on this form and on the label affixed to each specimen bottle is correct.

[Signature]
 Signature of Donor

Edo. E. J. Haynes
 (PRINT) Donor's Name (First, MI, Last)

3/31/05
 8/17/70
 Date (Mo/Day/Yr)

Daytime Phone No. 334-284-7919

Evening Phone No. 334-272-0317

Date of Birth 8/17/70

Should the results of the laboratory tests for the specimen identified by this form be confirmed positive, the Medical Review Officer will contact you to ask about prescriptions and over-the-counter medications you may have taken. Therefore, you may want to make a list of those medications for your own records. THIS LIST IS NOT NECESSARY. If you choose to make a list, do so either on a separate piece of paper or on the back of your copy (COPY 5). -DO NOT PROVIDE THIS INFORMATION ON THE BACK OF ANY OTHER COPY OF THE FORM. TAKE COPY 5 WITH YOU.

STEP 6: COMPLETED BY MEDICAL REVIEW OFFICER - PRIMARY SPECIMEN

In accordance with applicable requirements, my determination/verification is:

☐ NEGATIVE ☐ POSITIVE ☐ TEST CANCELLED ☐ REFUSAL TO TEST BECAUSE:
☐ DILUTE ☐ ADULTERATED ☐ SUBSTITUTED

REMARKS:

☒ _____
 Signature of Medical Review Officer

☒ _____
 (PRINT) Medical Review Officer's Name (First, MI, Last)

1/1/ _____
 Date (Mo/Day/Yr)

STEP 7: COMPLETED BY MEDICAL REVIEW OFFICER - SPLIT SPECIMEN

In accordance with applicable requirements, my determination/verification for the split specimen (if tested) is:

☐ RECONFIRMED ☐ FAILED TO RECONFIRM - REASON _____

☒ _____
 Signature of Medical Review Officer

☒ _____
 (PRINT) Medical Review Officer's Name (First, MI, Last)

1/1/ _____
 Date (Mo/Day/Yr)

COPY 3 - COLLECTOR COPY - YELLOW

LabCo

5440

PALMER PSYCHIATRIC SERVICES, PC
 Clemmie Palmer III, M.D.

3090 Woodley Road, Suite A
 Montgomery, AL 36116

Office Note

Date: 3/28/05Name: Eddie HaynerDOB: 8/17/1970**SUBJECTIVE:**

Patient was seen today. Chief complaint _____
 Main issue discussed today was:

1. want - 4/4/05 will be 15 yrs F.R. & Sep.
2. sleep - ok
3. appetite -

Medication a. compliance 1. compliant 2. Non compliant 3. Partially compliant
 b. side effects 1. none 2. _____

OBJECTIVE:Appearance: can

Interview Behavior - i.e. cooperative, hostile, superficial, eye contact hypervigilant, exaggerated startle responses

Level of Consciousness - alert, oriented X Y Lethargic, stuporous, comatose, fluctuating

Mood ok **Affect** - wnl, mildly constricted, constricted, blunted, flat, congruent with mood

Speech - regular rate & rhythm, responsive to cues from the interviewer, spontaneous, latency, pressured, nonpressured, monotone, soft, whispered, dramatic, poverty of speech, poverty of content of speech, slurring, mumbling, receptive/expressive aphasia, stuttering, dysarthric

Thought Process - logical, coherent, FOM/LOA, blocking, confusion, muteness, perseveration, ~~word salad~~, tangentiality/circumstantiality could focus sustain & shift attention

Thought Content - no A/V halluc., no special powers, TB/TI/TC, No Suicidal/Homicidal Ideation, delusions, IOR, obsessions, compulsions, preoccupation

Assessment/Plan: 1) GAD2) Valium 5mg #60 - 1 bid - 43) Gabitril 4mg #60 - 2 qid - 4Lexapro 10mg #30 - 1 qm - 430 min 4 p

J. R.

5435



Palmer Psychiatric Services, PC
Clemmie Palmer III, M.D.

3090 Woodley Road, Suite A
Montgomery, Alabama 36116
doctor.medicape.com/CPalmerMD

Phone: (334) 280-3230
Fax: (334) 280-3272
Email: CPalm04@aol.com

March 4, 2006

RE: Eddie Haynes
DOB 08/17/1970

To Whom It May Concern:

Mr. Eddie Haynes is able to work on the current medications Lexapro, Valium, and Gabitril. He has not had any side effects on his current medications. Mr. Haynes is to take his medication as prescribed. He was instructed to take Valium on an as needed basis. Mr. Haynes has no work restrictions and should continue to perform his duties at his current capacity. He has been stable on his current medication and working full time without difficulty. If you have concerns do not hesitate to call or write.

Cordially,

CP/nb

Return To Work/School

Name: Eddie Haynes

~~was~~ under my care from 3/24/05 to 3/31/05

and may be able to return to work/school on To be
determined by
employer.

Limitations/Remarks: _____

Dr. Michael J. Dumas, MD Phone (234) 261-4445

Address 1600 Forest Ave Date 7/27/05
Montgomery AL 36106

Avelox
moxifloxacin HCl Tablets

Avelox i.v.
moxifloxacin HCl in NaCl Injection

**TO: Southeastern Industrial & Family Medicine Associates, LLC
Michael C. Turner, D.O.**

FROM: Eddie J. Haynes

DATE: June 9, 2005

RE: Personal Records

**I would like to obtain a copy of my personal file dating back from
September 13, 2004 to present.**

Thank you,


Eddie Haynes

RTW slip for Security Job
for time missed due to eval
requested by com./pm

CERTIFICATE TO RETURN TO WORK OR SCHOOL

Mr

Mrs

Ms

Eddie Haynes

was under my care from 5/25/06 to _____

and will be able to return to work/school on 5/25/06

Remarks _____

Dr

SOUTHEASTERN INDUSTRIAL

Phone

261-4445

& FAMILY MEDICINE ASSOCIATES, LLC

Date

5/25/06

Address

1600 FOREST AVENUE
MONTGOMERY, AL 36108

ATILEY

ATUSS DM ATUSS MS ATUSS HD ATUSS EX ATUSS G

For COM Fire Dept.
Pending completion of
Dr. Turner's notes on exam / pm

CERTIFICATE TO RETURN TO WORK OR SCHOOL

Mr

Mrs

Ms

Eddie Hayneswas under my care from 5/25/06 to _____and will be able to return to work/school on _____Remarks TBD by employerDr SOUTHEASTERN INDUSTRIAL Phone 861-4445Address & FAMILY MEDICINE ASSOCIATES, LLC Date 5/25/061600 FOREST AVENUE
MONTGOMERY, AL 36108mm

ATUSS DM ATUSS MS ATUSS HD ATUSS EX ATUSS G

5433

CERTIFICATE TO RETURN TO WORK OR SCHOOL

Mr
Mrs
Ms Eddie Haines

was under my care from 3/31/05 1:45 P.M. to _____

and will be able to return to work/school on _____

Remarks Office Visit for Evaluation

Dr. Michael Turner Phone 261-4445

Address 1600 Forest Ave. Date 3/31/05

8 Mtg. Al 36106 **ATLEY**

ATUSS DM ATUSS MS ATUSS HD ATUSS EX ATUSS G

12:08

9850

CITY OF MONTGOMERY
PHYSICIAN AUTHORIZATION AND TREATMENT REPORT

TO BE COMPLETED BY THE DEPARTMENT:

DEPARTMENT _____ DATE OF INJURY 9-13-04
 EMPLOYEE NAME Eddie Haynes SSN 424-23-1040
 EMPLOYEE AUTHORIZED TO SEE DOCTOR _____
 DATE 11/30/04 TIME _____

AUTHORIZING OFFICIAL _____

DATE _____

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S
Please complete this AUTHORIZATION AND TREATMENT REPORT and return it to the City of Montgomery via employee or mail.

REFERRALS must be approved by the Workers Compensation Office

LIGHT DUTY assignments must be accompanied with specific restrictions.

CITY OF MONTGOMERY--Payroll Division
 P.O. Box 1111
 Montgomery, AL 36101-1111

Telephone: 241-2015

TO BE COMPLETED BY PHYSICIAN:

EMPLOYEE SEEN 11-30-04 ☒ OR 11-30-04
Office Emergency Room
 Date

X-RAYS were OR were not TAKEN

DIAGNOSIS: HypertensionTREATMENT: Or Hns

MEDICATION PRESCRIBED (Types and Amount) _____

EMPLOYEE 1 OR RETURN TO WORK THIS DATE 11-30-04
~~MAY~~ MAY NOT ~~NORMAL~~ OR LIGHT
 DUTY

IF LIGHT DUTY, GIVE SPECIFIC RESTRICTIONS _____

IF EMPLOYEE CAN'T RETURN, INDICATE DATE EXPECTED TO RETURN:

DATE _____ TO NORMAL DUTY _____ OR LIGHT DUTY _____

DATE EMPLOYEE SHOULD RETURN TO DOCTOR 2

SIGNATURE OF PHYSICIAN

9599

PHYSICIAN INFORMATION AND CARE REPORT

TO BE COMPLETED BY THE DEPARTMENT

DEPARTMENT

DATE OF EXAMINATION Sept 13 2009

EMPLOYEE NAME

EMPLOYEE AUTHORIZED TO SEE DOCTOR

DATE

AUTHORIZING OFFICER

PHYSICIAN: Please complete this form and return it to the City of Houston, Department of Public Health.

REFERRALS must be approved by the Department of Public Health.

LIGHT DUTY: If an employee is unable to perform their normal duties due to a medical condition, they may be placed on light duty.

TESTING: If an employee is unable to perform their normal duties due to a medical condition, they may be placed on light duty.

CHIEF OF POLICE: If an employee is unable to perform their normal duties due to a medical condition, they may be placed on light duty.

PHYSICIAN: If an employee is unable to perform their normal duties due to a medical condition, they may be placed on light duty.

TO BE COMPLETED BY PHYSICIAN

EMPLOYEE SEEN

X-RAYS

DIAGNOSIS

TREATMENT

MEDICATION PRESCRIBED

EMPLOYEE

IF LIGHT DUTY

IF EMPLOYEE CAN'T RETURN TO NORMAL DUTY

DATE

DATE EMPLOYEE SHOULD RETURN TO DOCTOR

SIGNATURE OF PHYSICIAN

CITY OF MONTGOMERY
PHYSICIAN AUTHORIZATION AND TREATMENT REPORT

TO BE COMPLETED BY THE DEPARTMENT:

DEPARTMENT _____ DATE OF INJURY _____
 EMPLOYEE NAME Eddie Haynes SSN 44-23-1040
 EMPLOYEE AUTHORIZED TO SEE DOCTOR Turner
 DATE 11-15-04 TIME 1:30

AUTHORIZING OFFICIAL _____

P
H
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S
Please complete this AUTHORIZATION AND TREATMENT REPORT and return it to the City of Montgomery via employee mail.
 REFERRALS must be approved by the Workers Compensation Office
 LIGHT DUTY assignments must be accompanied by specific restrictions.
 CITY OF MONTGOMERY--Payroll Division Phone: 241-2015
 P.O. Box 1111
 Montgomery, AL 36101-1111

TO BE COMPLETED BY PHYSICIAN:

EMPLOYEE SEEN ☒ Office OR ☐ Emergency Room Date 11-15-04

X-RAYS ☐ were OR ☐ were not

DIAGNOSIS: Knee Pain

TREATMENT: PT

MEDICATION PRESCRIBED (Types and Amount) _____

EMPLOYEE 1 OR MAY NOT RETURN TO WORK THIS DATE 11-15-04 OR ☒ LIGHT DUTY

IF LIGHT DUTY, GIVE SPECIFIC RESTRICTIONS No lifting

IF EMPLOYEE CAN'T RETURN, INDICATE DATE WHEN TO RETURN:

DATE _____ TO NORMAL DUTY _____

DATE EMPLOYEE SHOULD RETURN TO DOCTOR 11-22-04

SIGNATURE OF PHYSICIAN _____

TO BE COMPLETED BY THE DEPARTMENT:

Department Fire Date of Injury September 13, 2004
Employee Name E.J. Haynes SSN 424-23-1040
Employee Authorized to see Doctor Dr. Turner
Date November 9, 2004 Time 1115

Authorizing Official Date _____

P Please complete this AUTHORIZATION AND TREATMENT REPORT and return
H it to the City of Montgomery via employee or mail.
Y
S REFERRALS must be approved by the Workers Compensation Office
I
C Light Duty assignments must be accompanied with specific restrictions
I
A CITY OF MONTGOMERY -- Payroll Division Telephone: 241-2015
N P.O. Box 1111
S Montgomery, Al. 36101-1111

TO BE COMPLETED BY PHYSICIAN:

EMPLOYEE SEEN Office OR Emergency Room Date 11-9-04
X-RAYS were OR were not TAKEN
DIAGNOSIS: Knee Pain
TREATMENT: Meds PT
MEDICATION PRESCRIBED (Types and Amounts) _____

EMPLOYEE ✓ OR _____ RETURN TO WORK THIS DATE _____ OR ✓ DUTY
MAY MAY NOT NORMAL LIGHT
IF LIGHT DUTY, GIVE SPECIFIC RESTRICTIONS No hazardous duty
No heavy

IF EMPLOYEE CAN'T RETURN, INDICATE DATE EXPECTED TO RETURN:

DATE _____ TO NORMAL DUTY _____ OR LIGHT DUTY _____
DATE EMPLOYEE SHOULD RETURN TO DOCTOR 11/15/04 @ 3:30

[Signature]
SIGNATURE OF PHYSICIAN

1. The first part of the document is a title page. It contains the title of the document, the author's name, and the date of the document.

[illegible]

[Faint handwritten notes and bleed-through from the reverse side of the page are visible.]

1. The first step in the process of identifying a problem is to recognize that a problem exists. This involves gathering information about the situation and identifying the specific issue that needs to be addressed.

1. The first step in the process is to identify the problem or issue that needs to be addressed. This involves gathering information and understanding the context of the problem.

100

[illegible]

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[illegible][illegible]

[The following text is extremely faint and largely illegible due to poor scan quality. It appears to be a continuation of the document's body text.]

...the ...

[illegible]

100

1. The first step in the process is to identify the problem. This involves gathering information about the situation and understanding the needs of the stakeholders involved.

100

3944

DOCTOR: MICHAEL C. TURNER, D.O.
1600 FOREST AVE., MONTGOMERY, AL 36106
PHONE: (334)261-4445 FAX: (334)261-4448
WWW.SIFMA.COM

ALL SECTIONS OF THIS FORM MUST BE COMPLETED

PATIENT INFORMATION

***PLEASE PRINT ***

NAME Eddie Haynes SSN # 424-23-1040
CURRENT ADDRESS 4501 Middle Fork Rd. DOB 8/17/70
CITY/STATE Montg, AL HOME PHONE # (334) 612-0317
ZIP CODE 36106 CELL PHONE OR BEEPER # () _____

EMPLOYER INFORMATION

EMPLOYER NAME: Montg. Fire Dept TELEPHONE NO. (334) 284-7919
WHO AUTHORIZED YOU TO COME TO OUR OFFICE? Montg. Fire Dept. / Chief Smith

REASON FOR APPOINTMENT

1. WERE YOU INJURED AT WORK? YES OR NO IF YES, EXPLAIN YOUR INJURY & HOW IT HAPPENED.
IF NO, PLEASE PROCEED TO NUMBER 2. BELOW

Left knee getting into car.

DATE OF INJURY Sept 13, 2001 JOB TITLE/POSITION Firefighter
SHIFT/WORK HOURS 24/48 HOW LONG EMPLOYED 15 yrs

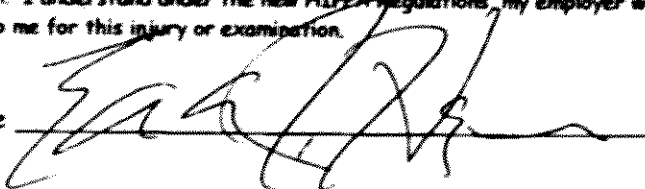
2. WHAT SERVICE MAY WE PROVIDE? (PLEASE CIRCLE) PRE-EMPLOYMENT PHYSICAL,
EMPLOYMENT PHYSICAL, DOT PHYSICAL, DRUG SCREEN, IF OTHER (PLEASE EXPLAIN)

Montgomery Fire Dept advised me to report to see
Dr. Turner

AUTHORIZATION TO RELEASE INFORMATION

I authorize the release of medical information necessary to process this claim or treat this injury. This may include request of records from other sources. I permit a copy of this authorization to be used in the place of the original. I also authorize the physicians and medical personnel to render medical treatment to me as requested by myself and my employer listed above with regard to my injury or examination. I understand under the new HIPAA Regulations, my employer will have a right to my medical information regarding the care rendered to me for this injury or examination.

Signature



Date

3/22/05

THANK YOU FOR ALLOWING US TO CARE FOR YOUR NEEDS!

Southeastern Industrial and Family Medicine Associates, LLC
MICHAEL C. TURNER, D.O.
1600 FOREST AVE.
Montgomery, AL 36106
(334) 261-4445 / www.sifma.com

PATIENT INFORMATION:

Patient Name: Eddie J. Haynes SSN# 424 23 1040
Current Address: 4501 Middle Fork Rd. DOB: 8/17/70
City/State: Montgomery, AL Telephone No: (334) 272 0317
Zip Code: 36106 Cell Phone or Beeper No: (334) 657 1853

EMPLOYER INFORMATION:

Employer Name: Montg. Fire Dept Telephone No: (334) 284 7919
Supervisor's name or person that authorized you to come to our office: Capt. Hackett

REASON FOR APPOINTMENT:

1. Were you injured on the job? ☒ yes (circle one) If yes, explain your injury and how it happened.
Stepping into my car, I guess I over-extended causing
pain in my left knee
2. Date of your injury? 9/13/04 Job Title/Position: Firefighter
Shift/Work Hours C shift / 24 hours How long employed? 14 yrs 5 months
3. If you do not have an injury, what services may we provide you? (employment physical, drugscreen, DOT physical etc...)
City requirements

AUTHORIZATION TO RELEASE INFORMATION:

I authorize the release of medical information necessary to process this claim or treat this injury. This may include request of records from other sources. I permit a copy of this authorization to be used in the place of the original. I also authorize the physicians and medical personnel to render medical treatment to me as requested by myself and my employer listed above with regard to my injury or examination. I understand under the new HIPAA Regulations, my employer will have a right to any medical information about the care rendered to me for this incident.

DATE: 9/14/04

SIGNATURE: [Signature]

ALL SECTIONS OF THIS FORM MUST BE COMPLETED !

THANK YOU FOR ALLOWING US TO CARE FOR YOUR NEEDS!

6608
6622

GOVERNMENT OF THE STATE OF TEXAS

Department of _____
Director of _____
Assistant Director of _____
Assistant Director of _____
Assistant Director of _____

PLAINTIFF'S
EXHIBIT

Chief complaint

The Chief Complaint is: New injury (L) knee pain

Past medical/surgical history

Reported History:

Reported medications Taking medication Zoloft, Valium prn, seizure Rx prn. A recent immunization for tetanus Done in military, date unknown, pt feels within time frame

Physical trauma Physical trauma 9/13/2004 Pt states he was getting in the car after getting food for the fireman and twisted his (L) knee

No previous injury to knee. Is still able to walk, stoop, etc but just feels pain in this knee -dc

Personal history

Work Work history Employed for COM Fire Dept as Fireman x 14 years

Physical findings

Vital signs:

• SBP 130/85 mmHg

No evidence of edema, negative Drawer, Lachman and McMurray. Mild tenderness over medial knee

Assessment

Michael C. Turner, DO made the following assessments

• Knee sprain

Allergies

An allergy Cipro

Plan

Patient may take OTC Advil, ice as directed. He may continue with regular duty and return as needed



Chief complaint

The Chief Complaint is Right knee injury

Past medical/surgical history**Reported History:**

Reported medications: Medication history Valium, Zolof

Physical trauma: Physical trauma 9/14/2004 Pt here for recheck of (L) knee injury. States his knee has never really stopped hurting. States his knee really began hurting after he exercises and/or runs. Also states he is unable to do squats. Never had P.T. ...

Personal history

Work: Work history Employed by COMFD x 15 years

Physical findings**Vital signs:**

Vital Signs/Measurements

Value

PR

84 bpm

Blood pressure

132/84 mmHg

Negative drawer, Lachman and McMurray by exam. Mild pain with valgus strain. No evidence of edema

Assessment

Michael C. Turner, DO made the following assessments

- Knee joint pain

Allergies

An allergy Cipri

Plan

Michael C. Turner, DO ordered the following therapy

- Physical therapy evaluation

Motrin 800 mg tablet SIG: 1 TAB orally 3 times a day for 10 day(s) 3 times a day Dispense: 30 TAB Refill: 0

Skelaxin 800 mg tablet SIG: 1 TAB orally 2 times a day for 10 day(s) 1 after work and 1 at bedtime Dispense: 20 tab(s) Refill: 0

Patient is placed on medications and is scheduled for PT. He is placed on light duty and we will recheck in one week



Chief complaint:

The Chief Complaint is: Fit for duty

Past medical/surgical history

Reported History:

Reported medications: Taking medication Ibuprofen, Gabitril, Valium, Lexapro, Demerol, Darvocet N 100, Benadry prn allergies: Skelaxin.

Pt states that these Rx's are prescribed by Drs. Wells, Palmer and Teresa Brown ...

Subjective

Pt here for Fit for Duty exam. Pt states that his (L) knee bothers him off and on.

Pt presently on multiple medications. Does not want to reveal reasons at this time for all of his medications. States he wants this left confidential between he and his other doctors ...dc.

Physical findings

Vital signs:

Vital Signs/Measurements	Value:
PR	96 bpm
Blood pressure	120/78 mmHg
Weight	201 lbs

Plan

Patient was instructed to have medical records whith but he does not so we will reschedule him when we have received his release of records.

PLAINTIFF'S
EXHIBIT

5

AUTHORIZATION FOR USE AND DISCLOSURE OF PROTECTED HEALTH INFORMATION

Patient Identification:

Printed Name: Eddie Haynes Date of Birth: 8-17-70

Address: 4501 Middle Fork Rd Montgomery AL 36106

Social Security#: 424-22-1040 Home Phone: 272-0317 Cell: _____

Information To Be Released - Covering the Periods of Health Care:

From (date) _____ to (date) _____
From (date) _____ to (date) _____

Please check type of information to be released:

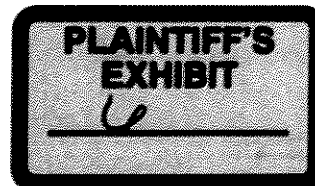
<input checked="" type="checkbox"/> Entire Medical Record	<input type="checkbox"/> Pathology Reports	<input type="checkbox"/> Hospital Records	<input checked="" type="checkbox"/> X-Ray Reports
<input type="checkbox"/> History & Physical Exams	<input checked="" type="checkbox"/> Consultation Reports	<input type="checkbox"/> Progress Notes	<input type="checkbox"/> X-Ray Films
<input checked="" type="checkbox"/> Lab Test Results/Reports	<input checked="" type="checkbox"/> Office Visit Notes	<input checked="" type="checkbox"/> Operative Reports	<input type="checkbox"/> ER Records
<input checked="" type="checkbox"/> Medications	<input type="checkbox"/> Other: (specify) _____		

Purpose of Request:

<input checked="" type="checkbox"/> Treatment	<input checked="" type="checkbox"/> Consultation	<input type="checkbox"/> Patient Requested	<input type="checkbox"/> Billing or Claims Payment
---	--	--	--

Person or Facility Authorized to Receive Information:

Southeastern Industrial & Family Medicine Associates, LLC
1600 Forest Avenue
Montgomery, Alabama 36106
Telephone: (334)261-4445 Fax: (334)261-4448



Drug and/or Alcohol Abuse, and/or Psychiatric, and/or HIV/AIDS Records Release:

I understand that if my medical or billing record contains information in reference to drug and/or alcohol abuse, psychiatric care, sexually transmitted Disease, Hepatitis B or C testing, and/or other sensitive information, I AGREE to its release as part of the requested information.

Check One: ☒ YES ☐ NO _____ Initials _____

I understand that if my medical or billing record contains information in reference to HIV/AIDS (Human Immunodeficiency Virus/Acquired Immuno-Deficiency Syndrome) testing and/or treatment, I AGREE to its release as part of the requested information:

Check One: ☐ YES ☐ NO _____ Initials _____

Time Limit & Right to Revoke Authorization:

Except to the extent that action has already been taken in reliance on this authorization, at any time I can revoke this authorization by submitting a notice in writing to the facility Privacy Officer. This authorization is effective for _____ months after date signed.

Signature of Patient or Personal Representative Who May Request Disclosure:

I understand that _____ may not condition my treatment on whether I sign this authorization form unless specified above under Purpose of Request. I can inspect or copy the protected health information (PHI) to be used or disclosed. I authorize Southeastern Industrial & Family Medicine to use and disclose the PHI specified above.

Signature: [Signature] Date: 3-24-05
Authority to sign if not patient: _____

Re-disclosure:

I understand the information disclosed by this authorization may be subject to re-disclosure by the recipient and will no longer be protected by HIPAA. The facility, its employees, officers and physicians are hereby released from any legal responsibility or liability for disclosure to the extent indicated and authorized.

Clemmie Palmer III, M.D.
2000 Woodley Road, Suite A
Montgomery, AL 36116
Phone: 334-396-3230
Fax: 334-396-3272

CONFIDENTIAL FACSIMILE TRANSMITTAL

Date 3-28-05

To: Southwestern Industrial Fax Number: 261-4448

Re: Eddie Haynes

From: Mary Henry ☺

Number of Pages: 4 Including cover

Comment:

The information in this facsimile transmission is confidential and privileged. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or use of, or reliance on the contents of this facsimile transmission is prohibited. If you have received this facsimile in error, please notify us immediately by telephone to arrange for the return of the entire facsimile transmission, including any copies thereof to the above address.

Thank you.

PLAINTIFF'S
EXHIBIT

8

5440

PALMER PSYCHIATRIC SERVICES, PC
Clemente Palmer III, M.D.3090 Woodley Road, Suite A
Montgomery, AL 36116

Office Note

Date: 3/28/05Name: Eddie HaynerDOB: 8/17/1970

SUBJECTIVE:

Patient was seen today. Chief complaint _____
Main issue discussed today was:

1. want - 4/4/05 will be 1540 F. & A. Rep.
2. sleep - OK
3. appetite -

Medication a. compliance 1. compliant 2. Non compliant 3. Partially compliant
b. side effects 1. none 2. _____

OBJECTIVE:

Appearance canInterview Behavior- I.e. cooperative, hostile, superficial, eye contact hypervigilant, exaggerated startle responseLevel of Consciousness- alert, oriented X Y Lethargic, stuporous, comatose, fluctuatingMood OK Affect- wnl, mildly constricted, constricted, blunted, flat, congruent with good

Speech - regular rate & rhythm, responsive to cues from the interviewer, spontaneous, latency, pressured, nonpressured, monotone, soft, whispered, dramatic, poverty of speech, poverty of content of speech, sturring, mumbling, receptive/expressive aphasia, stuttering, dysarthric

Thought Process - logical, coherent, FOM/LOA, blocking, confusion, muteness, perseveration, ~~undulation~~, tangentiality/circumstantiality could focus sustain & shift attentionThought Content- no A/Y halluc., no special powers, TB/TI/TC, No Suicidal/Homicidal ideation, delusions, IOR, obsessions, compulsions, preoccupationAssessment/Plan: 1) GAD2) Valium 5mg #60 - 1 bid - 43) Gabitril 4mg #60 - 2 qid - 4Lexapro 10mg #30 - 1 qm - 430 Bim 1 p

J Rn

5435

 **Palmer Psychiatric Services, PC**
Clemmie Palmer III, M.D.

3080 Woodley Road, Suite A
Montgomery, Alabama 36116
doctor.medscape.com/CPalmerMD

Phone: (334) 280-3230
Fax: (334) 280-3272
Email: CPalm94@aol.com

March 4, 2005

RE: Eddie Haynes
DOB 08/17/1970

To Whom It May Concern:

Mr. Eddie Haynes is able to work on the current medications Lexapro, Valium, and Gabler. He has not had any side effects on his current medications. Mr. Haynes is to take his medication as prescribed. He was instructed to take Valium on an as needed basis. Mr. Haynes has no work restrictions and should continue to perform his duties at his current capacity. He has been stable on his current medication and working full time without difficulty. If you have concerns do not hesitate to call or write.

Cordially,



CP/rb

Chief complaint

The Chief Complaint is: Fit for duty

History of present illness

Eddie Haynes is a 34 year old male.

Pt states he is here to have his medication checked for his job. He was here the other day and that we were to find out about some records concerning his medications.

Past medical/surgical history**Reported History:**

Reported medications: Medication history: Lexapro, Gabitril, Ibuprofen, Skelaxin, Valium, DCN, Benedryl prn, Hydrocodone.

Medical: Reported medical history: L. knee injury/pain, R. foot injury, anxiety.

Personal history

Work: Work history Pt is employed by COMFD x 15 yrs.

Physical findings**Vital signs:**

Vital Signs/Measurements	Value
Blood pressure	142/92 mmHg
Weight	198 lbs

Lungs:

* Respiration rhythm and depth was normal. * Clear to auscultation.

Cardiovascular system:

Heart Rate And Rhythm: * Normal.

Murmurs: * No murmurs were heard.

Abdomen:

Auscultation: * Abdominal auscultation revealed no abnormalities.

Reviewed letters and medications from treating physicians. Patient has no physical limitations. He states he does not take his medications while on duty.

Allergies

Cipro. Reaction(s): Itching, Rash. Identified: Unknown.

Plan

Patient is physically fit to return to duty. The concerns come from the medications he is taking for his anxiety and joint pains. He is prescribed the Valium 5mg bid and Gabitril qd. The patient states he does not take any medications but the Lexapro while on duty. This logic made no sense to me that you would need to take the medicine on your days off while not under stress but not need it when in the most stressful situations. These medications effects could carry over to his on duty time. Any drug screen performed would most likely be positive even when on duty.

There are safety issues for him driving a truck and working on the fire line while under the influence of these medications though he claims he does not take while on duty. The only way to prove it would see him taking the medication while on duty. Administrative decision is needed.

**PLAINTIFF'S
EXHIBIT**

9

Do Not Send By Mail

MRO Reference

CLIENT

Voice (334)261-4445 / Fax (334)261-4448 DR MICHAEL TURNER SOUTHEASTERN INDUSTRIAL AND FAMILY MEDICINE ASSOCIATES L.L. 1600 FOREST AVE MONTGOMERY AL 36106	Voice (334)241-2517 / Fax (334)241-4410 John Carnell City Of Montgomery Alabama 103 N. Perry Street - City Hall Montgomery AL 36104 <i>Fire</i> <i>Eddie Haynes</i>
--	---

Client Code CIT002 Entity ID 10024006 CCF ID F818760	Date Collected 03/31/2005 Date Received 04/01/2005 Date Reported 04/03/2005 Test Use Other <i>Return to duty</i>	Lab ID 114162592 Subject ID 424-23-1040 Sample Length 0 to 3.4cm
--	--	--

Drug:	Result:	RIA Cutoffs:
COCAINE	Negative	5 ng/10mg
OPIATES	Negative	2 ng/10mg
PHENCYCLIDINE (PCP)	Negative	3 ng/10mg
AMPHETAMINES	Negative	5 ng/10mg
MARIJUANA	Negative	2 ng/gm

- Body hair sample submitted.
- Sample received with Chain of Custody Intact.
- A "Negative" result means that the drug was not detected in an amount that meets or exceeds the cutoff. A "Positive" result means that the drug was detected in an amount that meets or exceeds the Mass Spec cutoff.
- Please contact your Client Services Representative with questions regarding these test results



Southeastern Industrial & Family Medicine Associates, L.L.C.
Dr. Michael Turner
1600 Forest Avenue
Montgomery, AL 36106
(334) 261-4445 Fax (334) 261-4448

6480

Date: April 5, 2005

Employer: City of Montgomery
P.O. Box 1111
Montgomery, AL 36104-1111
Attn: John Carnell

Donor Name: Eddie Haynes

Social Security#: 424-23-1040

Specimen #: 0630632903

Collection Date: 03/31/05

Reason for Test: Return to Duty ✓

COC Rev'd: 03/31/05

I have reviewed the laboratory results for the specimen identified above
in accordance with requirements equivalent to or meeting Federal regulations.

My Final Determination: NEGATIVE DRUGSCREEN



Medical Review Officer

Michael C. Turner, D O



6400

Southeastern Industrial & Family Medicine Associates, L.L.C.
Dr. Michael Turner
1600 Forest Avenue
Montgomery, AL 36106
(334) 261-4445 Fax (334) 261-4448

Date: September 24, 2004

Employer: COM Risk Management
Attn: John Carnell
PO Box 1111
Montgomery, AL 36101-1111

Donor Name: Eddie Haynes

Social Security: 424-23-1040

Specimen #: 0772382553

Collection Date: 09/14/04

Reason for Test: Post Accident ✓

Collector: Esther Harrison

Collection Site: Southeastern Industrial & Family Medicine

I have reviewed the laboratory results for the specimen identified above
in accordance with requirements equivalent to or meeting Federal regulations.

My Final Determination: NEGATIVE Drug Screen



Signature of Medical Review Officer
Michael C. Turner, D.O.



C O R P O R A T I O N

qEvent #006785

HAIR ANALYSIS DRUG TEST RESULTS

Patented Technologies

Scientific Director: Werner A. Baumgartner, Ph.D.

Medical Director: Harry M. Rance, M.D.

MRO

CLIENT

Voice: (334)832-4450 / Fax: (334)264-4742 /
(401)696-1155

DR MICHAEL TURNER
INDUSTRIAL MEDICINE SPECIALIST LLC
1501 FOREST AVE
MONTGOMERY AL 36106

Voice: (334)241-2517 / Fax: (334)241-4410

Jeff Downes
City Of Montgomery Alabama
103 N. Perry Street - City Hall
Montgomery AL 36101

Eddie Haynes

Client Code: CTT002
Entity ID: 10024006
TRF ID: L310468

Date Collected: 01/24/2002
Date Received: 01/25/2002
Date Reported: 01/25/2002
Test Use: Unknown

Lab ID: 112963039
Subject ID: 424-23-1040
Sample Length: 0 to 4.5 cm

Drug	Result:	RIA Cutoffs:
COCAINE	Negative	5 ng/10 mg
OPIATES	Negative	5 ng/10 mg
PHENCYCLIDINE (PCP)	Negative	3 ng/10 mg
AMPHETAMINES	Negative	5 ng/10 mg
MARIJUANA	Negative	2 ng/gm

- Extremely curly or very unaligned hair submitted. This type of hair cannot be properly aligned and/or cut which may affect the time frame represented by the analysis.
- Sample received with Chain of Custody Intact.
- A "Negative" result means that the drug was not detected in an amount that meets or exceeds the cutoff. A "Positive" result means that the drug was detected in an amount that meets or exceeds the Mass Spectrometry cutoff.
- Please contact your Client Services Representative with questions regarding these test results.

PLAINTIFF'S
EXHIBIT

13



Palmer Psychiatric Services, PC
Clemmie Palmer III, M.D.

3090 Woodley Road, Suite A
Montgomery, Alabama 36116
doctor.medscape.com/CPalmerMD

Phone: (334) 280-3230
Fax: (334) 280-3272
Email: CPalm94@aol.com

April 14, 2005

RE: Eddie Haynes
DOB 08/17/1970

To Whom It May Concern:

Mr. Eddie Haynes is able to work without taking Valium or Gabitril. Mr. Haynes can perform his duties in his current capacity with no restrictions. If you have concerns do not hesitate to call or write.

Cordially,

CP/nb

PLAINTIFF'S
EXHIBIT

14

Alh Chee
McKel
Eddie Hayes 6340

5/15/2006

1 Note 5/25/2006 9:05:00 AM

Eddie Hayes, Gender: M, DOB: 8/17/1970, Encounter Date and Time: 5/15/2006 09:05 AM, Encounter: Michael C. Turner, DO

Chief complaint

The Chief Complaint is: Fit for duty

Allergies

No allergies

Past medical/surgical history

Reported History:

No past medical history reported

Reported medications: No recent documentation for asthma.

Physical exam: Physical exam Pt states that he is here for a fit for duty to go back to the fire department. -b. Shoulder surgery in 2005.

Personal history

Work: Work history Pt employed with COM.

Physical findings

Vital signs:

Vital Signs/Measurements

Blood pressure

Weight

Value

140/90 mmHg

212 lbs

Assessment

Fit for Duty.

Plan

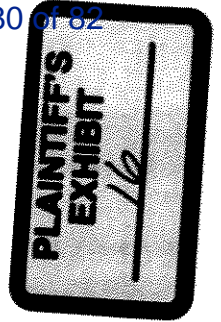
Nothing has changed since his last evaluation. He is still physically fit for duty. He is still taking Lasapra, Plavixil, Valium, Sing bid, and Gabitril. He does not take them while at work. The medications could affect his performance while on duty which involves driving a fire truck and working on the fire line. Why he would not need or take these medications for an icy while on duty I do not understand. There must be an administrative decision with this case.

Page 1

RECEIVED MAY 25 2006

PLAINTIFF'S
EXHIBIT

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CERTIFICATE TO RETURN TO WORK OR SCHOOL

Mr _____
 Mrs Eddie Haymes
 Ms _____

was under my care from 5/25/06 to _____

and will be able to return to work/school on _____

Remarks TBD by employer

Dr _____ Phone 861-4445

& FAMILY MEDICINE ASSOCIATES, LLC 5/25/06

Address 1600 FOREST AVENUE

MONTGOMERY, AL 36108 nm

ATTORNEY

ATUSS DM ATUSS MS ATUSS HD ATUSS EX ATUSS G

Duties are as follows:

Sec. 230, Shall enact life-saving skills on the fire scene and keep loss of property to a minimum in a fire situation by preventing the spreading of a fire, protecting adjacent structures and controlling and extinguishing the fire as directed by superior officers in command at the fire scene. The following are some other responsibilities:

- a. Search and Rescue of any victims.
- b. Catching hydrants, making up lines, ventilation.
- c. Safely and aggressively fight fires.
- d. Cause as little damage as possible.
- e. Clean up after fire and help in the investigation.
- f. Cleaning and checking equipment for any faults.
- g. Aid driver with putting apparatus in full service.

Sec. 231, Be responsible for helping maintain function-ability of hand and power tools, apparatuses and appurtenances.

Sec. 232, Perform housekeeping chores around station, that includes sweeping, mopping, and waxing of floors, cleaning kitchen articles, cleaning rest rooms, cleaning windows and maintain up-keep of station grounds.

Sec. 233, Will be observant so he could, if needed, aid in the performance of duties for other members of his company. Will as needed in the absence of the driver perform duties of the driver when necessary, and called upon.

Sec. 234, Shall be courteous and helpful in their relations with the public and strictly observe the rules of cleanliness of their person and surroundings.

Sec. 235, Shall refer all reports and matters relating to the department, to or through their immediate superior officer.

PLAINTIFF'S
EXHIBIT

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Sec. 236, Shall not leave premises while on duty without special permission.

Sec. 237, Shall acquaint themselves with all matters contained in these rules.

Sec. 238, Will perform other miscellaneous duties as assigned by superior officers.

Sec. 239, Shall responsible for knowing all physical conditions, streets, hydrants, buildings, and fire protection systems - in first alarm territories and pre-planned assignments.

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

EDDIE J. HAYNES,
Plaintiff,

v.

CITY OF MONTGOMERY,
Defendant.

Case No. 2:06-CV-1093-WKW

**DEFENDANT'S AMENDED RESPONSE TO PLAINTIFF'S
PLAINTIFF'S FIRST INTERROGATORIES**

COMES NOW Defendant City of Montgomery and answers Plaintiff Eddie J. Haynes' First Interrogatories as follows:

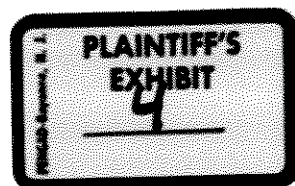
1. Prior to answering these interrogatories, have you made due and diligent search of the books, records, and papers of the Defendant and due and diligent inquiry of the agents and employees of the Defendant regarding the matters referred to in these interrogatories?

RESPONSE: Yes.

2. Please identify, by name, present employer and business address, job title, and shift, each person employed by Defendant at Fire Station 14, District 111, during the period from November 1, 2004 through March 15, 2005.

RESPONSE: Defendant objects to this interrogatory as it is overbroad, unduly burdensome and not reasonably calculated to produce admissible evidence. Defendant also objects to the extent that this interrogatory seeks information irrelevant to this case. Notwithstanding the foregoing objections, see attached.

3. Please identify, by name, job title, and present employer and business address, each person who played any role in making the decision to place Plaintiff on sick



leave or involuntary leave on March 15, 2005, and state in your answer the role played by each person.

RESPONSE: Retired Fire Chief John McKee, Assistant Fire Chief C.E. Walker, and Fire Chief Miford Jordan (who was Deputy Fire Chief on March 15, 2005.)

4. Please identify, by name, job title, and present employer and business address, each person who played any role in making the decision to have Plaintiff see Dr. Michael Turner for a fitness for duty examination and state in your answer the role played by each person.

RESPONSE: Retired Fire Chief John McKee and current Fire Chief Miford Jordan. City of Montgomery Risk Manager John Carnell was also involved. Also, the Montgomery Fire Department looks to the National Fire Protection Association Rules and Regulations as a guideline for best practices, but has not adopted them in their entirety so they are not binding on the Montgomery Fire Department.

5. Please identify, by date, substance, and participants, each written communication between any agent or employee of Defendant and Dr. Michael Turner regarding Plaintiffs fitness for duty or Plaintiffs medications.

RESPONSE: Defendant objects to this interrogatory to the extent that it requests attorney work product and documents or information protected by attorney-client privilege. Defendant objects to this interrogatory as it is overbroad, unduly burdensome and not reasonably calculated to produce admissible evidence. Defendant also objects to the extent that this interrogatory seeks information irrelevant to this case. Notwithstanding the foregoing objections, see attached.

6. Please identify, by date, substance, and participants, each oral communication between any agent or employee of Defendant and Dr. Michael Turner regarding Plaintiffs fitness for duty or Plaintiffs medications.

RESPONSE: Defendant objects to this interrogatory to the extent that it requests attorney work product and documents or information protected by attorney-client privilege. Defendant objects to this interrogatory as it is overbroad, unduly burdensome, unlimited in scope or time, and not reasonably calculated to produce admissible evidence. Defendant also objects to the extent that this interrogatory seeks information irrelevant to this case. Notwithstanding the foregoing objections, see attached.

7. Please identify, by name, job title, present employer and business address, the persons who played any role in making the decision to notify Plaintiff by letter dated June 20, 2006 that his employment status with the Montgomery Fire Department had been considered a voluntary resignation effective June 14, 2006, and state in your answer the role played by each person in making that decision.

RESPONSE: Retired Fire Chief John McKee and current Fire Chief Miford Jordan.

8. Please describe in detail all actions taken by Kimberly O. Fehl and any other agent or employee of the Defendant with regard to the medical records release authorizations and general release forms requested to be completed by the Plaintiff in the letter dated August 1, 2005 from Kimberly O. Fehl to Gerald L. Miller, once those authorizations were returned to Ms. Fehl after having been executed by the Plaintiff.

RESPONSE: Defendant objects to this interrogatory to the extent that it requests attorney work product and documents or information protected by attorney-client privilege. Defendant also objects to this interrogatory as it is overbroad, unduly burdensome and not reasonably calculated to produce admissible evidence. Defendant also objects to the extent that this interrogatory seeks information irrelevant to this case. Notwithstanding the foregoing objections, see attached.

9. Please identify, by date, substance, and participants, all written and oral communications between, on the one hand, Kimberly O. Fehl and any other agent or employee of Defendant and, on the other hand, Dr. Clemmie Palmer, related to the Plaintiff.

RESPONSE: Defendant objects to this interrogatory to the extent that it requests attorney work product and documents or information protected by attorney-client privilege. Defendant also objects to this interrogatory as it is overbroad, unduly burdensome and not reasonably calculated to produce admissible evidence. Notwithstanding the foregoing objections, see attached.

10. Please state whether Kimberly O. Fehl or any agent or employee of Defendant ever forwarded any medical records of the Plaintiff to Dr. Clemmie Palmer and, if so, please state the date such records were forwarded and the date and substance of all resulting communications.

RESPONSE: No.

11. Please state whether Kimberly O. Fehl or any agent or employee of Defendant ever forwarded any medical records of the Plaintiff to Dr. Michael Turner and, if so,

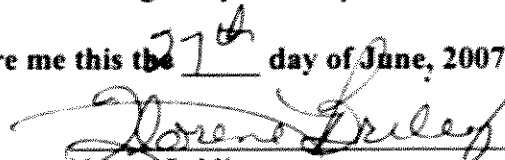
please state the date such records were forwarded and the date and substance of all resulting communications.


RESPONSE: No.

Submitted this 27th day of June, 2007.


Miford Jordan for
Montgomery Fire Department

SWORN to and SUBSCRIBED before me this the 27th day of June, 2007.


Notary Public
My commission expires 8-29-09


Allison H. Highley (HIG024)
Kimberly O. Fehl (FEH001)
Attorneys for Defendant

OF COUNSEL:

Legal Department
City of Montgomery
Post Office Box 1111
Montgomery, Alabama 36101-1111
(334) 241-2050
(334) 241-2310 (fax)

CERTIFICATE OF SERVICE

I hereby certify that foregoing has been served upon the following by first class

United States Mail on this 27th day of June, 2007:

Gerald L. Miller
REDDEN, MILLS & CLARK, LLP
940 Financial Center
505 North 20th Street
Birmingham, Alabama 35203


Allison H. Highley (HIG024)
Of Counsel